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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER III—BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B.E.P.Q.-Q. 48]

MODIFICATIONS OF JAPANESE BEETLE QUARANTINE REGULATIONS

REVISION OF REGULATIONS 3, 5, AND 6, AND REPRINTING OF REGULATIONS 7 AND 9; EFFECTIVE APRIL 5, 1940

Introductory Note

Extensions of the regulated areas in Maryland, New York, Ohio, Pennsylvania, and West Virginia are made in the following revision of regulation 3.[1] In Maryland, the entire counties of Caroline, Harford, and Talbot are brought under regulation, and minor extensions have been made in the counties of Baltimore, Carroll, Frederick, Washington, and Wicomico. In New York, but one community is added, Erwin Township in Steuben County. The newly added Ohio area includes the entire counties of Belmont, Guernsey, Medina, Wayne, and part of Lake County. The area in Pennsylvania has been extended to all of Clarion County and parts of Venango and Erie Counties, placing Corry and Erie under regulation as isolated points. West Virginia extensions include Brooke County, the whole of Jefferson County, area in Wood County, and the city of Charleston, the latter as an isolated point. Wheeling is brought within the main regulated area.

Under regulation 5,[1] the special area from which the movement of fruits and vegetables by motortruck or refrigerator car is regulated has been extended to New York City and surrounding area, including one town in Connecticut, as well as additional area in Maryland, New Jersey, and Pennsylvania.

The season during which fruits and vegetables are required to be certified when shipped from the regulated area remains the same as heretofore, from June 15 to October 15, except that in the case of a small area in Virginia, designated in subsection (A) of regulation 5, certification is required beginning June 1.

Certification requirements are lifted as to portions of plants without roots and free from soil, such as branches, twigs, and Christmas trees, and also as to soil-free, dried roots incapable of propagation and appropriately labeled. The certification requirements remain in effect as to cut flowers shipped from June 15 to October 15, inclusive. Plants of trailing arbutus, heretofore exempted part of the year when shipped without primary roots and soil-free, are now exempt from certification from October 16 to June 14, provided they are soil-free.

AVERY S. HOYT,
Acting Chief.

AMENDMENT NO. 2 TO THE RULES AND REGULATIONS (SEVENTEENTH REVISION) SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 48

[Approved April 4, 1940; effective April 5, 1940]

Under authority conferred by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended by the act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), it is ordered that regulations 3, 5, and 6[1] (§§ 301.48–3, 5, and 6) of the rules and regulations (seventeenth revision) supplemental to Notice of Quarantine No. 48 (§ 301.48) on account of the Japanese beetle, which were promulgated February 16, 1939, as amended, are hereby further amended to read as follows:

Regulation 3

§ 301.48–3 *Regulated areas.* In accordance with the provisos to Notice of Quarantine No. 48 (twelfth revision) (§ 301.48), the Secretary of Agriculture designates as regulated areas for the purpose of these regulations the States, District, counties, townships, towns, cities, election districts, and magisterial districts listed below, including all cities, towns, boroughs, or other political subdivisions within their limits:

[1] 4 F.R. 2476.

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FEDERAL REGISTER

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Maryland. Counties of Caroline, Cecil, Harford, Kent, Queen Annes, Somerset, Talbot, and Worcester; the city of Baltimore; the city of Cumberland, the town of Frostburg, and election districts Nos. 4, 5, 6, 7, 11, 12, 14, 22, 23, 24, 26, 29, 31, and 32, in *Allegany County;* the city of Annapolis and election districts Nos. 2, 3, 4, and 5, in *Anne Arundel County;* all of *Baltimore County* except election districts Nos. 5 and 6; the city of Westminster, and the election districts of Freedom (No. 5), Hampstead (No. 8), Mount Airy (No. 13), New Windsor (No. 11), Taneytown (No. 1), Uniontown (No. 2), and Westminster (No. 7), in *Carroll County;* election districts of La Plata and White Plains, in *Charles County;* election districts of Cambridge (No. 7), East New Market (No. 2), Hurlock (No. 15), and Williamsburg (No. 12), in *Dorchester County;* election districts of Brunswick (No. 25), Buckeystown (No. 1), Frederick (No. 2), Jefferson (No. 14), New Market (No. 9), Petersville (No. 12), and Woodville (No. 18), in *Frederick County;* election districts of Elkridge (No. 1), Ellicott City (No. 2), Guilford (No. 6), and West Friendship (No. 3), in *Howard County;* election districts of Colesville (No. 5), and Rockville (No. 4), in *Montgomery County,* and those portions of the election districts of Bethesda (No. 7), and Wheaton (No. 13), in said county located within the established boundaries of the so-called "Washington Suburban Sanitary District"; all of *Prince Georges County* except the election districts of Aquasco (No. 8), and Nottingham (No. 4); election districts of Funkstown (No. 10), Hagerstown (Nos. 3, 17, 21, 22, 24, and 25), Halfway (No. 26), Leitersburg (No. 9), Sandy Hook (No. 11), Sharpsburg (No. 1), and Williamsport (No. 2), in *Washington County;* election districts of Camden (No. 13), Delmar (No. 11), Dennis (No. 6), Fruitland (No. 16), Nutters (No. 8), Parsons (No. 5), Pittsburg (No. 4), Salisbury (No. 9) and the town of Salisbury, Sharptown (No. 10), Trappe (No. 7), and Willards (No. 14), in *Wicomico County.*

Massachusetts. The entire State.

New Hampshire. Counties of Belknap, Cheshire, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; towns of Brookfield, Eaton, Effingham, Freedom, Madison, Moultonboro, Ossipee, Sandwich, Tamworth, Tuftonboro, Wakefield, and Wolfeboro, in *Carroll County;* towns of Alexandria, Ashland, Bridgewater, Bristol, Canaan, Dorchester, Enfield, Grafton, Groton, Hanover, Hebron, Holderness, Lebanon, Lyme, Orange, and Plymouth, in *Grafton County.*

New Jersey. The entire State.

New York. Counties of Albany, Bronx, Broome, Chemung, Chenango, Columbia, Cortland, Delaware, Dutchess, Fulton, Greene, Kings, Madison, Montgomery, Nassau, New York, Oneida, Onondaga, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Ulster, Washington, and Westchester; towns of Red House and Salamanca, and the city of Salamanca, in *Cattaraugus County;* towns of Amherst, Cheektowaga, and Tonawanda, and the cities of Buffalo and Lackawanna, in *Erie County;* towns of Columbia, Danube, Fairfield, Frankfort, German Flats, Herkimer, Litchfield, Little Falls, Manheim, Newport, Salisbury, Schuyler, Stark, Warren, and Winfield, and the city of Little Falls, in *Herkimer County;* town of Watertown and city of Watertown, in *Jefferson County;* town of Mount Morris and village of Mount Morris, in *Livingston County;* city of Rochester and town of Brighton, in *Monroe County;* towns of Catherine, Cayuta, Dix, Hector, Montour, and Reading, and the borough of Watkins Glen, in *Schuyler County;* towns of Caton, Corning, Erwin, Hornby, and Hornellsville, and the cities of Corning and Hornell, in *Steuben County;* towns of Caroline, Danby, Dryden, Enfield, Ithaca, Newfield, and the city of Ithaca, in *Tompkins County;* towns of Luzerne and Queensbury and the city of Glens Falls, in *Warren County.*

Ohio. Counties of Belmont, Carroll, Columbiana, Cuyahoga, Guernsey, Harrison, Jefferson, Mahoning, Medina, Portage, Stark, Summit, Tuscarawas, and Wayne; the city of Coshocton, in *Coshocton County;* the city of Columbus, and villages of Bexley, Grandview, Grandview Heights, Hanford, Marble Cliff, and Upper Arlington, in *Franklin County;* townships of Kirtland, Mentor, and Willoughby, and the villages of Kirtland Hills, Lakeline, Mentor, Mentor-on-the-Lake, Waite Hill, Wickliffe, Willoughby, and Willowick, in *Lake County;* the township of Newark and city of Newark, in *Licking County;* the city of Toledo, in *Lucas County;* the township of Madison and the city of Mansfield, in *Richland County;* townships of Bazetta, Braceville, Brookfield, Champion, Fowler, Hartford, Howland, Hubbard, Liberty, Lordstown, Newton, Southington, Warren, Weathersfield, and Vienna, the cities of Niles and Warren, and the villages of Cortland, Girard, Hubbard, McDonald, Newton Falls, and Orangeville, in *Trumbull County.*

Pennsylvania. The entire State, except Crawford and Forest Counties; Mercer Township in *Butler County;* townships of Amity, Concord, Conneaut, Elk Creek, Fairview, Franklin, Girard, Greene, Greenfield, Harborcreek, Le Boeuf, McKean, North East, Springfield, Summit, Union, Venango, Washington, and Waterford, and the boroughs of Albion, Cranesville, East Springfield, Edinboro, Elgin, Fairview, Girard, Lawrence Park, Middleboro, Mill Village, North East, North Girard, Platea, Union City, Waterford, Wattsburg, and Wesleyville, in *Erie County;* townships of Coolspring, Deer Creek, Delaware, East Lackawannock, Fairview, Findley, French Creek, Greene, Hempfield, Jackson, Jefferson, Lackawannock, Lake, Liberty, Mill Creek, New Vernon, Otter Creek, Perry, Pine, Pymatuning, Salem, Sandy Creek, Sandy Lake, South Pymatuning, Springfield, Sugar Grove, West Salem, Wilmington, Wolf Creek, and Worth, and the boroughs of Clarksville, Fredonia, Greenville, Grove City, Jack-

son Center, Jamestown, Mercer, New Lebanon, Sandy Lake, Sheakleyville, and Stoneboro, in *Mercer County;* townships of Allegheny, Canal, Cherrytree, Clinton, Irwin, Jackson, Mineral, Oakland, Oilcreek, Plum, Scrubgrass, and Victory, and the boroughs of Clintonville, Cooperstown, and Pleasantville, in *Venango County;* and the townships of Brokenstraw, Cherry Grove, Columbus, Conewango, Deerfield, Eldred, Farmington, Freehold, Limestone, Pine Grove, Pittsfield, Pleasant, Southwest, Spring Creek, Sugar Grove, Triumph, Watson (including the boroughs of Bear Lake, Grand Valley, Sugar Grove, Tidioute, and Youngsville), in *Warren County.*

Rhode Island. The entire State.

Vermont. Counties of Bennington, Rutland, Windham, and Windsor; and the town of Burlington, in *Chittenden County.*

Virginia. Counties of Accomac, Arlington, Culpeper, Elizabeth City, Fairfax, Fauquier, Henrico, Loudoun, Norfolk, Northampton, Prince William, Princess Anne, and Stafford; magisterial districts of Dale and Manchester, in *Chesterfield County;* magisterial district of Sleepy Hole, in *Nansemond County;* magisterial district of Courtland, in *Spotsylvania County;* Camp Stuart, in *Warwick County;* magisterial district of Washington, in *Westmoreland County;* and the cities of Alexandria, Fredericksburg, Hampton, Newport News, Norfolk, Portsmouth, Richmond, South Norfolk, and Suffolk.

West Virginia. Counties of Brooke, Hancock, Harrison, Jefferson, Marion, Monongalia, and Taylor; districts of Arden, Falling Waters, Hedgesville, and Opequon, and the city of Martinsburg, in *Berkeley County;* the city of Charleston in *Kanawha County;* town of Keyser and district of Frankfort, in *Mineral County;* the city of Wheeling, in *Ohio County;* and the city of Parkersburg, and districts of Lubeck and Tygart, in *Wood County.**

Regulation 5

§ 301.48–5 *Restrictions on the movement of fruits and vegetables—A. Control of movement.* (1) Unless a certificate or permit shall have been issued therefor, by an inspector, except as provided in paragraphs (a) to (e), inclusive, of this regulation: (i) No green corn on the cob, beans in the pod, bananas, apples, peaches, blackberries, blueberries, huckleberries, or raspberries shall be moved or allowed to be moved interstate from any regulated area to or through any point outside thereof; and (ii) no fruits or vegetables of any kind shall be moved or allowed to be moved interstate via refrigerator car or motortruck from the State, District, counties, election districts, townships, towns, or cities listed below to or through any point outside the regulated areas:

Connecticut. Town of Greenwich in Fairfield County.

Delaware. The entire State.

District of Columbia. The entire District.

Maryland. Counties of Cecil, Harford, Kent, Queen Annes, Somerset, and Worcester; election district No. 5 in *Anne Arundel County;* the city of Baltimore; all of *Baltimore County* except election districts Nos. 4, 5, 6, 7, 8, and 10; all of *Caroline County* except election districts of American Corners (No. 8), and Hillsboro (No. 6); election districts of Cambridge (No. 7), East New Market (No. 2), Hurlock (No. 15), and Williamsburg (No. 12), in *Dorchester County;* election districts of Camden (No. 13), Delmar (No. 11), Dennis (No. 6), Fruitland (No. 16), Nutters (No. 8), Parsons (No. 5), Pittsburg (No. 4), Salisbury (No. 9) and the town of Salisbury, Trappe (No. 7), and Willard (No. 14), in *Wicomico County.*

New Jersey. Counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Salem, Somerset, and Union; townships of Lodi, Lyndhurst, Overpeck, Rochelle Park, Saddle River, and Teaneck, the cities of Englewood, Garfield, and Hackensack, and the boroughs of Bogota, Carlstadt, Cliffside Park, East Paterson, East Rutherford, Edgewater, Englewood Cliffs, Fair Lawn, Fairview, Fort Lee, Glen Rock, Hasbrouck Heights, Leonia, Little Ferry, Lodi, Maywood, Moonachie, North Arlington, Palisades Park, Ridgefield, Rutherford, Teterboro, Wallington, and Wood Ridge, in *Bergen County;* townships of Chatham, Chester, Denville, East Hanover, Hanover, Harding, Mendham, Morris, Morristown, Parsippany-Troy Hills, Passaic, Randolph, and Washington, and the boroughs of Chatham, Florham Park, Madison, Mendham, and Morris Plains, in *Morris County;* township of Little Falls, the cities of Clifton, Passaic, Paterson, and the boroughs of Haledon, Hawthorne, North Haledon, Prospect Park, Totowa, and West Paterson, in *Passaic County;* townships of Franklin, Greenwich, Lopatcong, Mansfield, Phillipsburg, Pohatcong, and Washington, and the boroughs of Alpha and Washington, in *Warren County.*

New York. Counties of Bronx, Kings, New York, Queens, and Richmond; town of North Hempstead, in *Nassau County;* towns of Eastchester, Harrison, Mamaroneck, Pelham, Rye, and Scarsdale, and the cities of Mount Vernon, New Rochelle, White Plains, and Yonkers, in *Westchester County.*

Pennsylvania. Counties of Bucks, Chester, Delaware, Lancaster, Montgomery, and Philadelphia; townships of Alsace, Amity, Bern, Brecknock, Caernarvon, Colebrookdale, Cumru, District, Douglass, Earl, Exeter, Hereford, Lower Alsace, Maidencreek, Muhlenberg, Oley, Ontelaunee, Pike, Robeson, Rockland, Ruscombmanor, South Heidelberg, Spring, Union, and Washington, the city of Reading, and the boroughs of Bally, Bechtelsville, Birdsboro, Boyertown, Mohnton, Mount Penn, Saint Lawrence, Shillington, Sinking Spring, Temple, West Lawn, West Reading, Wyomissing, and Wyomissing Hills, in *Berks County;* townships of Londonderry, Lower Paxton, Lower Swatara, Susquehanna, and Swatara, the city of Harrisburg, and the boroughs of Highspire, Middletown, Paxtang, Penbrook, Royalton, and Steelton, in *Dauphin County;* townships of Lower Macungie, Lower Milford, Upper Milford, and Upper Saucon, and the boroughs of Coopersburg, and Emaus, in *Lehigh County;* townships of Lower Saucon and Williams, in *Northampton County;* townships of Lower Chanceford and Peach Bottom, in *York County.*

Virginia. Counties of Accomac, Arlington, and Northampton.

Provided, That the Chief of the Bureau of Entomology and Plant Quarantine may by administrative instructions extend or reduce the areas specified in this regulation when in his judgment such action is considered advisable.

(a) No restrictions are placed on the interstate movement of fruits and vegetables between October 16 and June 14, inclusive, except that in the case of movement interstate from the following areas, the exemption applies only during the period from October 16 to May 31, inclusive:

Virginia. The counties of Accomac, Elizabeth City, Norfolk, Northampton, and Princess Anne; the magisterial district of Sleepy Hole, in *Nansemond County;* Camp Stuart in *Warwick County;* and the cities of Hampton, Newport News, Norfolk, Portsmouth, South Norfolk, and Suffolk.

(b) No certificate or permit will be required for the interstate movement of fruits and vegetables when transported by a common carrier on a through bill of lading either from an area not under regulation through a regulated area to another nonregulated area, or from a regulated area through a nonregulated area to another regulated area, except that a certificate is required for interstate movement from the main regulated area to the following-named isolated points: Brewer and Waterville, Maine; Brighton, Buffalo, Hornell, Mount Morris, Rochester, and Watertown, and the town of Hornellsville, Steuben County, N. Y., or to other regulated parts of Erie, Jefferson, and Livingston Counties, N. Y.; Columbus, Coshocton, Mansfield, Newark, and Toledo, Ohio, or to other regulated parts of Licking and Richland Counties, Ohio; Corry and Erie, Pa.; Burlington, Vt.; and Charleston and

*§§ 301.48–3, 5, 6, 7, and 9 issued under authority of sec. 8, 37 Stat. 318; 39 Stat. 1165; 44 Stat. 250; 7 U.S.C. 161.

Parkersburg, W. Va. No restrictions are placed on the interstate movement of fruits and vegetables from the above-named isolated points.

(c) No restrictions are placed on the interstate movement of fruits and vegetables when they shall have been manufactured or processed in such a manner that in the judgment of the inspector no infestation could be transmitted.

(d) No restrictions are placed on the interstate movement of any shipments of (1) apples or peaches of less than 15 pounds to the shipment; (2) bananas in single bunches packed in commercial containers; or (3) bananas singly, or in individual hands.

(e) No restrictions are placed on the interstate movement of commercially packed apples or commercially packed peaches in any quantity, except those moving via refrigerator cars or motortrucks from the area listed in paragraph (1) of this regulation.

(2) No restrictions are placed on the interstate shipment from the regulated areas of fruits and vegetables other than those mentioned above except that any such interstate shipments of fruits and vegetables may be inspected at any time or place inside or outside the regulated areas and when actually found to involve danger of dissemination of Japanese beetle to uninfested localities, measures to eliminate infestation may be required as a condition of further transportation or delivery.

B. *Conditions of certification.* Certificates may be issued for the interstate movement of fruits and vegetables between June 15 and October 15, inclusive (or between June 1 and October 15, inclusive, when consigned from that part of Virginia described in paragraph (a) of this regulation) under one of the following conditions:

(3) When the fruits and vegetables, moving from a point in the regulated area other than that specified in paragraph (1) of this regulation, or moving from such designated area other than by refrigerator car, have actually been inspected by the United States Department of Agriculture and found free from infestation. The number of inspection points for such certification will be limited and their location determined by shipping needs and further conditioned on the establishment at such points of provisions satisfactory to the inspector for the handling and safeguarding of such shipments during inspection. Such inspection may be discontinued and certification withheld by the inspector during periods of general or unusual flight of the beetles.

(4) When the fruits and vegetables have been handled or treated under the observation of an inspector in manner and by method to free them from any infestation.

(5) When the fruits and vegetables have originated outside of the regulated areas and are to be reshipped directly from freight yards, transfer points, or unloading docks within such areas, under provisions satisfactory to the inspector for safeguarding of such shipments pending certification and reshipment. Certificates on this basis will be issued without inspection only in cases where, in the judgment of the inspector, the shipments concerned have not been exposed to infestation while within such freight yards, transfer points, or unloading docks.

(6) When the fruits and vegetables were grown in districts where the fact has been established to the satisfaction of the inspector that no infestation exists and are to be shipped directly from the farms where grown to points outside the regulated areas, or are shipped from infested districts where the fact has been established to the satisfaction of the inspector that the Japanese beetle has not begun or has ceased its flight.

(7) When the fruits and vegetables moving via refrigerator car from the area listed in paragraph (1) of this regulation have been inspected and loaded in a manner to prevent infestation, in a refrigerator car with closed or adequately screened doors and hatches, which car prior to loading has been determined by an inspector as fumigated or thoroughly swept and cleaned by the common carrier in a manner to rid it of infestation. During the interval between fumigation or cleaning and loading such refrigerator car must be tightly closed and sealed.

(8) When the fruits and vegetables moving via refrigerator car from the area listed in this regulation have been fumigated in the car, when deemed necessary in the judgment of the inspector and when the doors and hatches of the car have been tightly closed or adequately screened under the supervision of an inspector.*

Regulation 6

§ 301.48–6 *Restrictions on the movement of nursery and ornamental stock—* A. *Control of movement.* Nursery and ornamental stock as defined in regulation 1 (sec. 301.48–1) shall not be moved or allowed to be moved interstate from the regulated areas to or through any point outside thereof, unless a certificate or permit shall have been issued therefor by the inspector except as follows:

(1) The following articles, because of their growth or production, or their manufactured or processed condition, are considered innocuous as carriers of infestation and are therefore exempt from the requirements of certification:

(a) (i) True bulbs, corms, and tubers, when dormant, except for storage growth, and when free from soil, and (ii) single dahlia tubers or small dahlia root divisions when free from stems, cavities, and soil. Dahlia tubers, other than single tubers or small root divisions meeting these conditions, require certification.

(b) (i) Cut orchids, (ii) orchid plants, when growing exclusively in Osmunda fiber, (iii) Osmunda fiber, Osmundine, or orchid peat (*Osmunda cinnamomea*, and *O. claytoniana*).

(c) (i) Floral designs or "set pieces," including wreaths, sprays, casket covers, and all formal florists' designs; bouquets and cut flowers not so prepared are not exempted; (ii) trailing arbutus, or Mayflower (*Epigaea repens*), when free from soil, and when shipped during the period between October 16 and June 14, inclusive.

(d) (i) Herbarium specimens, when dried, pressed, and treated, and when so labeled on the outside of each container of such materials, (ii) mushroom spawn, in brick, flake, or pure culture form.

(e) (i) Sheet moss (*Calliergon schriberi* and *Thuridium recognitum*), (ii) resurrection plant or birds'-nest moss (*Selaginella lepidophylla*), (iii) sphagnum moss, bog moss, or peat moss (Sphagnaceae), (iv) dyed moss, when heat treated and appropriately labeled.

(f) Soil-free, dried roots incapable of propagation, when appropriately labeled.

(2) No restrictions are placed on the interstate movement of nursery and ornamental stock imported from foreign countries when reshipped from the port of entry in the unopened original container and labeled as to each container with a copy certificate of the country from which it was exported, a statement of the general nature and quantity of the contents, the name and address of the consignee, and the country and locality where grown.

(3) No restrictions are placed on the interstate movement of soil-free aquatic plants, and of portions of plants without roots and free from soil, except that a certificate is required for the movement of cut flowers during the period June 15 to October 15, inclusive.

(4) No certificate or permit will be required for the interstate movement of nursery and ornamental stock when transported by a common carrier on a through bill of lading either from an area not under regulation through a regulated area, or from a regulated area through a nonregulated area to another regulated area, except that a certificate is required between June 15 and October 15 for interstate movement of cut flowers from the main regulated areas to the following-named isolated points: Brewer and Waterville, Maine; Brighton, Buffalo, Hornell, Mount Morris, Rochester, and Watertown, and the town of Hornellsville, Steuben County, N. Y., or to other regulated parts of Erie, Jefferson, and Livingston Counties, N. Y.; Columbus, Coshocton, Mansfield, Newark, and Toledo, Ohio, or to other regulated parts of Licking and Richland Counties, Ohio; Corry and Erie, Pa.; Burlington, Vt.; and Charleston and Pakersburg, W. Va. No restrictions are placed on the interstate

movement of cut flowers from the above-named isolated points.

B. *Conditions governing the issuance of certificates and permits.* For the purpose of certification of nursery and ornamental stock, nurseries, greenhouses, and other premises concerned in the movement of such stock will be classified as follows:

(5) *Class I.* Nurseries, greenhouses, and other premises concerned in the movement of nursery and ornamental stock on or within approximately 500 feet of which no infestation has been found may be classified as class I. Upon compliance with the requirements of paragraph (11) of this regulation, nursery and ornamental stock may be certified by the inspector for shipment from such premises without further inspection, and without meeting the safeguards prescribed as a condition of interstate shipment of plants originating in nurseries or greenhouses of class III.

(6) *Class III.* (a) Nurseries, greenhouses, and other premises concerned in the movement of nursery and ornamental stock on which either grubs in the soil or one or more beetles have been found, will be classified as class III, *provided,* (i) there are maintained on the premises subdivided class I areas, certified houses, frames, or plots, or other certified areas, or (ii) there is a legitimate need for interstate or intradealer certification of such stock. Such classification will not be granted to nurseries, greenhouses, and other premises that do not maintain certified or subdivided areas and require only infrequent certification. Such classification also may be given to nurseries, etc., where one or more beetles or grubs are found in the immediate proximity (within approximately 500 feet) of such nurseries, etc., on adjacent property or properties. In the case of nursery properties under single ownership and management but represented by parcels of land widely separated, such parcels may be independently classified either as class I or class III upon compliance with such conditions and safeguards as shall be required by the inspector. Similarly, unit nursery properties, which would otherwise fall in class III, may be open to subdivision, for the purpose of rating such subdivisions in classes I or III, when in the judgment of the inspector such action is warranted by recent and scanty infestation limited to a portion of the nursery concerned: *Provided,* That the subdivision containing the infestation shall be clearly marked by boundaries of a permanent nature which shall be approximately 500 feet beyond the point where the infestation occurs.

(b) Upon compliance with paragraphs (7), (10), and (11) of this regulation, nursery and ornamental stock may be certified by the inspector for shipment from such premises under any one of the following conditions: (i) That the roots shall be treated by means approved by the Bureau of Entomology and Plant Quarantine in manner and by method satisfactory to the inspector; or (ii) in the case of plants in which the root system is such that a thorough inspection may be made, that the soil shall be entirely removed from the stock by shaking or washing; or (iii) that it shall be shown by evidence satisfactory to the inspector that the plants concerned were produced in a certified greenhouse.

(7) Greenhouses of class III may be certified upon compliance with all the following conditions with respect to the greenhouses themselves and to all potting beds, heeling-in areas, hotbeds, coldframes, and similar plots;

(a) Ventilators, doors, and all other openings in greenhouses or coldframes on premises in class III shall be kept screened in manner satisfactory to the inspector during the period of flight of the beetle, namely, south of the northern boundaries of Maryland and Delaware between June 1 and October 1, inclusive, or north thereof between June 15 and October 15, inclusive.

(b) Prior to introduction into nurseries or greenhouses, sand, if contaminated with vegetable matter, soil, earth, peat, compost, or manure taken from infested locations or which may have been exposed to infestation, must be sterilized or fumigated under the direction and supervision of, and in manner and by method satisfactory to the inspector. If such sand, soil, earth, peat, compost, or manure is not to be immediately used in such greenhouses, it must be protected from possible infestation in manner and by method satisfactory to the inspector.

(c) All potted plants placed in certified greenhouses of class III and all potted plants to be certified for interstate movement therefrom (i) shall be potted in certified soil; (ii) shall, if grown outdoors south of the northern boundaries of Maryland and Delaware at any time between June 1 and October 1, inclusive, or north thereof at any time between June 15 and October 15, inclusive, be kept in screened frames while outdoors; (iii) shall, if grown outdoors during any part of the year, be placed in beds in which the soil or other materials shall have been treated in manner and by method approved by the Bureau of Entomology and Plant Quarantine to eliminate infestation; and (iv) shall comply with such other safeguards as may be required by the inspector.

(8) Cut flowers may be certified for movement either (a) when they have been inspected by an inspector and found free from infestation, or (b) when they have been grown in a greenhouse of class I or in a certified greenhouse of class III and are transported under such safeguards as will in the judgment of the inspector prevent infestation. (See also paragraph (3) of this regulation.)

(9) Nursery and ornamental stock originating on or moved from unclassified premises may be certified by the inspector under either one of the following conditions: (a) That the soil shall be entirely removed from the stock, or (b) that the roots shall be treated by means approved by the Bureau of Entomology and Plant Quarantine in manner and by method satisfactory to the inspector, or (c) that it shall be shown by evidence satisfactory to the inspector that the accompanying soil was obtained at such points and under such conditions that in his judgment no infestation could exist therein.

(10) Nurserymen, florists, dealers, and others, in order to maintain a class III status shall report immediately on forms provided for that purpose all their sales or shipments of nursery and ornamental stock, sand, if contaminated with vegetable matter, soil, earth, peat, compost, and manure both to points outside the regulated areas and to other classified nurseries or greenhouses within the regulated area. Certification may be denied to any person who has omitted to make the report required by this regulation, and such denial of certification shall continue until the information so omitted has been supplied.

(11) Nurserymen, florists, dealers, and others, in order to maintain a class I status, or to maintain, in a class III establishment, a class I subdivision, a certified plot, or a certified greenhouse, (a) shall restrict their purchases or receipts of nursery and ornamental stock, sand, if contaminated with vegetable matter, soil, earth, peat, compost, and manure, secured within the regulated area and intended for use on class I or certified premises, to articles which have been certified under these regulations as to each such article and the said certificate shall accompany the article when moved; (b) shall obtain approval of the inspector before such articles are received on class I or certified premises or are taken into certified greenhouses; (c) shall report immediately in writing all purchases or receipts of such articles secured from within the regulated area for use on such premises; and (d) shall also report immediately on forms provided for that purpose all their sales or shipments of such articles both to points outside the regulated areas and to other classified nurseries or greenhouses within the regulated areas. Certification may be denied to any person who has omitted to make the report or reports required by this regulation, and such denial of certification shall continue until the information so omitted has been supplied.

(12) Nursery and ornamental stock imported from foreign countries and not reshipped from the port of entry in the unopened original container may be certified for movement under these regulations when such stock has been inspected by an inspector and found free from infestation.

(13) Nursery and ornamental stock originating outside the regulated areas and certified stock originating in classified nurseries or greenhouses may be certified for reshipment from premises

other than those on which they originated, under provisions satisfactory to the inspector for the safeguarding of such stock from infestation at the point of reshipment and en route, and when found advisable by the inspector, after reinspection and determination of freedom from infestation.*

Regulation 7

§ 301.48–7 *Restrictions on the movement of sand, soil, earth, peat, compost, and manure.* A. *Control of movement.* Sand, soil, earth, peat, compost, and manure shall not be moved or allowed to be moved interstate from any point in the regulated areas to or through any point outside thereof unless a certificate or permit shall have been issued therefor by the inspector, except as follows:

(1) No restrictions are placed on the interstate movement of (*a*) sand and clay when free from vegetable matter; (*b*) greensand marl; and (*c*) such other sands and clays as have been treated or processed and subsequently handled in such manner that in the judgment of the inspector no Japanese beetle could exist therein, provided that each container of such article shall be labeled on the outside thereof as to nature of contents, except that in the case of bulk shipments such label shall accompany the waybill or other shipping papers.

(2) No restrictions are placed on the *interstate movement of manure, peat, compost, or humus* (a) *when dehydrated and either shredded, ground, pulverized, or compressed, or* (b) *when treated with crude petroleum or any other product having high potency as an insecticide, and when so labeled on the outside of each commercial container of such materials.*

(3) No restrictions are placed on the interstate movement of sand, soil, earth, peat, compost, and manure imported from foreign countries when reshipped from the port of entry in the unopened original container and labeled as to each container with the country of origin, and when the shipment is further protected in manner or method satisfactory to the inspector.

(4) No certificate will be required for the interstate movement of sand, soil, earth, peat, compost, and manure when transported by a common carrier on a through bill of lading either from an area not under regulation through a regulated area, or from a regulated area through a nonregulated area to another regulated area.

B. *Conditions of certification.* Certificates for the movement of restricted sand, soil, earth, peat, compost, and manure may be issued under any one of the following conditions:

(5) When the articles to be moved have originated in districts included in the regulated area, but in which neither beetles nor grubs in soil have been found.

(6) When the material consists of fresh manure or of mined, dredged, or other similar materials, and it has been determined by an inspector that no infestation could exist therein.

(7) When the material has been removed, under the supervision of an inspector, from a depth of more than 12 inches below the surface of the ground and either (a) is to be moved between October 16 and June 14, inclusive, or (b) is loaded and shipped at points where it has been determined by an inspector that no general infestation of adult beetles exists, or (c) when the cars and loading operations are protected by screening under the direction of and in manner and by method satisfactory to the inspector.

(8) When the material has been fumigated with carbon disulphide or otherwise treated under the supervision of and in manner and by method satisfactory to the inspector. Such fumigation or treatment will be required as a condition of certification of all restricted sand, soil, earth, peat, compost, and manure, except such as is loaded and shipped in compliance with paragraphs (5), (6), or (7) hereof.*

Regulation 9

§ 301.48–9 *Marking and certification a condition of interstate transportation.* (a) Every box, basket, or other container of restricted articles listed in regulations 5, 6, and 7 (§§ 301.48–5, 6, and 7) shall be plainly marked with the name and address of the consignor and the name and address of the consignee, and shall have securely attached to the outside thereof a valid certificate or permit issued in compliance with these regulations. In the case of lot shipments by freight, one certificate attached to one of the containers and another certificate attached to the waybill will be sufficient.

(b) In the case of bulk carload shipments by rail, the certificate shall accompany the waybill, conductor's manifest, memorandum, or bill of lading pertaining to such shipment, and in addition each car shall have securely attached to the outside thereof a placard showing the number of the certificate or certificates accompanying the waybill.

(c) In the case of shipment by road vehicle, the certificates shall accompany the vehicle.

(d) Certificates shall be surrendered to the consignee upon delivery of the shipment.*

This amendment supersedes amend- and shall be effective on and after April 5th, 1940.
ment No. 1, promulgated June 22, 1939,

Done at the city of Washington this 4th day of April 1940.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40–1384; Filed, April 4, 1940; 11:46 a. m.]

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Supplement No. 26]

PART 701—1939 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1939 Agricultural Conservation Program Bulletin, as amended, is hereby further amended as follows:

Section 701.6[1] is amended by the addition of the following subsection:

(c) Notwithstanding any other provision of this section, where the Administrator finds that an error in a county or State office resulted in a yield or productivity index for a farm which is substantially less than that which would otherwise have been determined, he may authorize the correction of such yield or productivity index without requiring a redetermination of other farm yields or productivity indexes in the county, unless such error has resulted in farm yields or productivity indexes for other farms in the county which are substantially higher than they otherwise would have been.

Done at Washington, D. C., this 4th day of April 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40–1383; Filed, April 4, 1940; 11:46 a. m.]

[Supplement No. 8]

PART 701—1940 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1940 Agricultural Conservation Program Bulletin, as approved September 6, 1939, is hereby amended as follows:

1. Section 701.110[1] is amended by adding subsection (g) as follows:

"(g) *Deductions in Case of Erroneous Notice of Acreage Allotment.* Notwithstanding the deduction provisions of § 701.101, in any case where, through error in a county or State office, the producer was officially notified in writing of an acreage allotment for a commodity larger than the finally approved acreage allotment for that commodity and the county and State committees find that the producer, acting solely upon information contained in the erroneous notice, planted an acreage to the commodity in excess of the finally approved acreage allotment, the pro-

[1] 4 F.R. 3878.

ducer will not be considered to have exceeded the acreage allotment for such commodity unless he planted an acreage to the commodity in excess of the allotment erroneously issued, and the deduction for excess acreage will be made only with respect to the acreage in excess of the allotment erroneously issued."

2. Subparagraph (45) of paragraph (g), § 701.102 is amended to read as follows:

"Flooding, fruiting cranberry bogs before January 1, 1940, and holding the water on such bogs continuously until June 15, 1940, or a later date, as may be determined to be applicable by the State committee: 5 units per acre."

3. Subparagraphs (48) and (49) are added to paragraph (g), § 701.102 as follows:

"(48) Establishing 300 linear feet of permanent sod waterway in a field which is devoted to an intertilled crop in 1940. No waterway will be approved with an average width of less than 10 feet. The channel of the waterway must be sufficiently wide at all points to carry all water diverted into it under conditions of maximum rainfall. Seedings made in the establishing of permanent sod waterways must contain perennial grasses in areas where it is practicable to obtain a good stand of such grasses. In areas of limited rainfall, temporary seedings may be used in accordance with instructions issued by the State committee, upon approval of the regional director. In any event, a good vegetative growth must be obtained in the waterway channel before October 1, 1940: ½ unit.

"(49) Constructing dams in waterways or gullies on farm land. No dams will be approved where less than six dams are constructed in any one waterway or gully. Stake, wire, sod, brush, rock dams, and similar structures will be regarded as dams for purposes of this practice. The type of dam and method of construction will be in accordance with instructions issued by the State committee upon approval by the regional director. All dams must be in effective operation before October 1, 1940: Each six dams=1 unit."

4. Section 701.109 is amended to read as follows:

§ 701.109 *Materials furnished as grants of aid.* Wherever it is found practicable, limestone, superphosphate, trees, seeds, and other farming materials, upon request of the producer, may be furnished by the Agricultural Adjustment Administration as grants of aid to be used in carrying out soil-building practices approved for the farm as practices which may be counted toward meeting the soil-building goal for the farm.

"Wherever such material is furnished, a deduction shall be made in an amount determined by the Agricultural Adjustment Administration on the basis approved by the Secretary. In the Northeast, East Central, and Southern Regions such deduction shall be applied first to the payment computed for the person to whom such material is furnished and the balance of such deduction, if any, shall be prorated among the payments to the other persons sharing in the payment with respect to the farm for which such material was obtained. In the North Central and Western Regions such deduction shall be made from any payment due the grantee on the same or any other farm.

"Materials shall be furnished only pursuant to a producer's request and agreement upon Form ACP-64. In the event the amount of deduction for materials exceeds the amount of the payment subject to deduction, the amount of such difference shall be paid by the producer to the Secretary, except that if proper use of the material has been made only that part of such difference not due to changes in the rates of payment shall be so paid. If the producer uses any such material in a manner which is not in substantial accord with the purpose for which such material was furnished, an additional deduction for the material misused equal to the amount of the original deduction for such material shall be made to compensate the Government for damages because of such misuse, such damages to be deducted from the payments computed for the grantee with respect to any farm in which he has an interest, any remaining deficit to be paid by the producer to the Secretary, provided that, in the Northeast, East Central, and Southern Regions, deduction for any deficit will be made insofar as possible from payments computed for other persons on the farm with respect to which such material was furnished. The finding of the county committee that the material has been used in a manner which is not in substantial accord with the purpose for which it was furnished, and as to the amount of the material so misused, shall be final when approved by the State committee, subject to the right of appeal under the provisions of § 701.112.

"Notwithstanding any other provisions herein, in areas designated by the Agricultural Adjustment Administration, for any farm on which no performance is rendered under the 1940 program, except the carrying out of practices through the use of materials furnished by the Agricultural Adjustment Administration, the furnishing of such materials shall be in lieu of any payment which otherwise might be computed for the farm."

Done at Washington, D. C., this 4th day of April 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-1381; Filed, April 4, 1940; 11:46 a. m.]

CHAPTER VIII—SUGAR DIVISION

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN THE PRODUCTION, CULTIVATION, OR HARVESTING OF THE 1940 CROP OF SUGAR BEETS

Whereas, section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

Whereas, the Secretary of Agriculture, pursuant to a notice of hearing,[1] dated January 9, 1940, held public hearings for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1940 crop of sugar beets.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby make the following determination:

§ 802.14d *Fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1940 crop of sugar beets.* Fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1940 crop of sugar beets shall be as follows:

For any farm or part of a farm which is covered by a separate labor agreement, from which sugar beets are contracted to be delivered to factories located in the following districts:

District I—Ohio, Michigan, Indiana, and Wisconsin

Blocking, thinning, and hoeing; $11.00 per acre.

Topping:

Net tons per acre:	Rate per ton
3 or below	$1.50
4	1.30
5	1.13

[1] 5 F.R. 161.

Net tons per acre—Continued.	Rate per ton
6	1.06
7	1.00
8	.96
9	.93
10	.91
11	.89
12	.87
13	.85
14	.83
15	.81
16 or above	.80

(The rate for all fractional tonnages between 3 and 16 tons rounded to the nearest tenth of a ton shall be in proportion within each interval.)

District II—Minnesota and Iowa

Blocking, thinning and hoeing:

"Old method" or "hill drop" fields: $12.00 per acre.

"Blocked" fields: $10.50 per acre.

"Cross cultivated" fields: $9.50 per acre.

Topping: 90¢ for each ton up to and including 7 tons per acre plus 80¢ for each ton per acre above 7 tons, with a minimum of $5.40 per acre.

District III—Kansas

Blocking and thinning: $8.00 per acre.

First hoeing: $2.00 per acre.

Second and each subsequent hoeing or weeding: $1.00 per acre.

Topping: 80¢ for each ton up to and including 12 tons per acre plus 70¢ for each ton per acre above 12 tons.

District IV—Nebraska, Colorado, Southern Wyoming, and South Dakota

Blocking and thinning: $8.00 per acre.

First hoeing: $2.50 per acre.

Second and each subsequent hoeing or weeding, $1.50 per acre.

Topping: 80¢ for each ton up to and including 12 tons per acre plus 70¢ for each ton per acre above 12 tons.

District V—Southern and Eastern Montana, and Northern Wyoming

Blocking and thinning: $9.50 per acre.

First hoeing: $2.50 per acre.

Second and each subsequent hoeing or weeding: $1.50 per acre.

Topping: 80¢ for each ton up to and including 12 tons per acre plus 70¢ for each ton per acre above 12 tons.

District VI—Western Montana

Blocking and thinning: $8.50 per acre.

First hoeing: $3.00 per acre.

Second and each subsequent hoeing or weeding: $2.00 per acre.

Topping: 80¢ for each ton up to and including 12 tons per acre plus 70¢ for each ton per acre above 12 tons.

District VII—Northern Montana

Blocking and thinning: $8.50 per acre.

First hoeing: $3.00 per acre.

Second and each subsequent hoeing or weeding: $2.00 per acre.

Topping and loading: 95¢ for each ton up to and including 12 tons per acre plus 85¢ for each ton per acre above 12 tons.

District VIII—Utah, Idaho, and Oregon

Blocking and thinning: $8.00 per acre or 40¢ per hour.

First hoeing: $2.00 per acre or 35¢ per hour.

Second and each subsequent hoeing or weeding, $1.00 per acre or 35¢ per hour.

Topping and loading: On a time basis 45 cents per hour. On a piecework basis:

Net tons per acre:	Rate per ton
6 or below	$1.30
7	1.23
8	1.16
9	1.10
10	1.05
11	1.01
12	.97
13	.94
14	.91
15	.89
16	.87
17	.86
18 or above	.85

When topping and loading are performed by different persons, 30 percent of the above rates shall be paid for loading.

(The rate for all fractional tonnages between 6 and 18 tons rounded to the nearest tenth of a ton shall be in proportion within each interval.)

District IX—Washington

Blocking and thinning: $7.50 per acre, or 40¢ per hour.

First hoeing: $2.00 per acre, or 35¢ per hour.

Second and each subsequent hoeing or weeding: $1.50 per acre, or 35¢ per hour.

Topping: 70¢ per ton, or 45¢ per hour.

Loading: 30¢ per ton, or 45¢ per hour.

Provided, however, (1) That if, because of unusual circumstances, it is essential to employ labor on other than a piecework basis for operations for which only piece rates are specified herein, the fair and reasonable rate shall be the rate agreed upon between the producer and the laborer, provided such rate is approved by the State committee as equivalent to the piece rate for such work specified herein;

(2) That in instances in which the use of special machine methods of planting, cultivation, or harvesting reduce the amount of labor required as compared with the method in common use in the area for the operations for which rates are specified herein, the fair and reasonable rate shall be the rate agreed upon between the producer and the laborer, provided such rate is approved by the State committee as equivalent to the piece rate specified herein for the part of such work performed;

(3) That if the producer and the laborer agree in writing that the laborer is to receive the sum of the payments specified above for blocking and thinning, and the first and second hoeing, for all such work prior to harvest, regardless of the number of hoeings required, the payment of this amount will be deemed to meet the requirements of this determination of fair and reasonable wages for blocking, thinning, hoeing, and weeding;

(4) That the foregoing shall not be construed to mean that a producer may qualify for payment who has not paid in full for all work in connection with the production, cultivation, or harvesting of sugar beets the amount agreed upon between the producer and the laborer;

(5) That in addition to the foregoing, the producer shall furnish to the laborer, without charge, the perquisites customarily furnished by him, such as a house, garden plot, and similar incidentals; and

(6) That the producer shall not, through any subterfuge or device whatsoever, reduce the wage rates to laborers below those determined above. (Sec. 301, 50 Stat. 909; 7 U.S.C., Sup. IV, 1131)

Done at Washington, D. C., this 3d day of April, 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-1364; Filed, April 3, 1940; 3:58 p. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 1391]

IN THE MATTER OF BAYUK CIGARS, INC.

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of product:* § 3.66 (a) *Misbranding or mislabeling—Composition:* § 3.96 (a) (1) *Using misleading name—Goods—Composition.* On and after two years from June 26, 1939, and in connection with sale, etc., in interstate commerce of cigars from any of respondent's factories, (1) using trade mark or name "Havana Ribbon" as descriptive of cigars of type and composition sold under said trade or brand name; or (2) using word "Havana", or other word or words of similar import, as brand or trade name, or as descriptive of any cigars not composed in whole or in substantial part of tobacco grown on the Island of Cuba; prohibited, as in detail set forth, and subject, in case of latter prohibition, to the various qualifications and disclosures specified in case of use of such or like words as in or part of brand name, or of descriptive matter only; and subject to permitted use, during said period, upon adoption of some new brand name containing word "Ribbon", of accompanying words, in substantially smaller letters, "Formerly Havana Ribbon." (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Bayuk Cigars, Inc., Docket 1391, March 25, 1940]

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of product:*

§ 3.66 (a) *Misbranding or mislabeling—Composition:* § 3.96 (a) (1) *Using misleading name—Goods—Composition.* In connection with sale, etc., in interstate commerce of cigars from any of respondent's factories, (1) using word "Mapacuba", or other word or words of similar import, as or in brand name, or as descriptive of any cigars not composed in whole or in part of tobacco grown on Island of Cuba; or (2) using such word or words, as aforesaid, for cigars composed in part only of tobacco grown on said island, unless accompanied with explanatory qualification, as in detail specified, indicating said fact; or (3) using depictions simulating and displaying flag, coat-of-arms, etc., of Republic of Cuba and various Cuban scenes in advertising, branding or labeling any cigars not composed in whole or in part as aforesaid; or (4) using such depictions as aforesaid in connection with cigars composed only in part of such tobacco, unless accompanied with explanatory qualification, as specified, indicating said fact; or (5) representing in any other manner whatsoever that any of cigars in question contain or are composed in whole or in part of tobacco grown on said island, when such is not true in fact; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Bayuk Cigars, Inc., Docket 1391, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on February 8, 1928, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on June 14, 1930, the United States Circuit Court of Appeals for the Third Circuit rendered its decree modifying the aforesaid order of the Commission and on November 21, 1930 amended the aforesaid decree, and on June 26, 1939 rendered its substitute decree modifying its aforesaid amended decree and also modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said Court decree:

It is ordered, That the respondent Bayuk Cigars, Incorporated, its officers, directors, agents, representatives, servants and employees, on and after two years from June 26, 1939, shall cease and desist, in connection with the sale or distribution of cigars from any of its factories in interstate commerce:

1. From using the trade-mark or trade name "Havana Ribbon" as descriptive of cigars of the type and composition or substantially of the type and composition lately and now sold under the aforesaid trade or brand name;

2. From using the word "Havana" or other word or words of similar import, alone or in conjunction with the word "Ribbon," or any other word or words, either as a brand or trade name or as descriptive of cigars, unless such cigars are composed entirely or in substantial part of tobacco grown on the Island of Cuba; provided that if the cigars be composed in part only of such tobacco, that fact shall be indicated by the brand or trade name (if the word "Havana" or like word occurs therein) the words of which that are descriptive of tobacco content shall be of uniform size, together with such accompanying descriptive words as may be necessary clearly to indicate the true composition and character of said cigars. If the word "Havana" or like word is not used in the brand name, but only in descriptive words applied to cigars composed in substantial part of Havana tobacco, such descriptive matter shall fairly indicate the true composition and character of the cigars. In all such descriptive matter the filler tobaccos used in said cigars shall be set forth in the order of their predominance by weight in letters of equal size and conspicuousness. Provided further that the words "Havana Filler" may, without other description, be applied, either as part of a brand name or otherwise, to cigars having a filler composed entirely of tobacco grown on the Island of Cuba.

It is further ordered, That pending the expiration of said period of two years from June 26, 1939, the respondent Bayuk Cigars, Incorporated, upon the adoption of some new brand name containing the word "Ribbon" but eliminating the word "Havana" may, during said period of two years, but not thereafter, accompany such new brand name with the words "Formerly Havana Ribbon" without the addition of other qualifying language: *Provided, however*, That such accompanying words be in letters substantially smaller than the new brand name.

It is further ordered, That within the period of two years and thirty days from June 26, 1939, Bayuk Cigars, Incorporated, be, and it is hereby, directed and ordered to file with the Commission a report in writing setting forth with particularity the manner in which it has complied with the aforesaid terms of this modified order.

It is further ordered, That the respondent Bayuk Cigars, Incorporated, its officers, directors, agents, representatives, servants and employees, shall cease and desist, in connection with the sale or distribution of cigars from any of its factories in interstate commerce:

1. From using the word "Mapacuba," or other word or words of similar import, as or in a brand name for or as descriptive of any such cigars which are not composed in whole or in part of tobacco grown on the Island of Cuba;

2. From using the word "Mapacuba," or other word or words of similar import, as or in a brand name for or as descriptive of any such cigars which are composed in part only of tobacco grown on the Island of Cuba, unless said word be immediately followed and accompanied by a word or words in letters of substantial size, visibility, and conspicuousness, clearly and unequivocally indicating or stating that such cigars are not composed wholly, but in part only, of tobacco grown on the Island of Cuba;

3. From using a depiction simulating the flag, emblem, insignia or coat-of-arms of the Republic of Cuba, map of Cuba, Cuban tobacco fields, City or Harbor of Havana, Cuba, or depiction of similar import, in the advertising, branding, or labeling of any such cigars which are not composed in whole or in part of tobacco grown on the Island of Cuba;

4. From using a depiction simulating the flag, emblem, insignia or coat-of-arms of the Republic of Cuba, map of Cuba, Cuban Tobacco fields, City or Harbor of Havana, Cuba, or depiction of similar import, in the advertising, branding or labeling of any such cigars which are composed in part only of tobacco grown on the Island of Cuba, unless such depiction be accompanied by a word or words in letters of substantial size, visibility and conspicuousness, clearly and unequivocally indicating or stating that such cigars are not composed wholly, but in part only, of tobacco grown on the Island of Cuba;

5. From representing in any other manner whatsoever that any of said cigars contain or are composed in whole or in part of tobacco grown on the Island of Cuba, when such is not true in fact.

It is further ordered, That the respondent, within thirty days after the service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the five prohibitions of this modified order immediately hereinabove set forth.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1367; Filed, April 4, 1940; 10:32 a. m.]

[Docket No. 2355]

IN THE MATTER OF H. N. HEUSNER & SON

§ 3.66 (a) *Misbranding or mislabeling—Composition.* On and after two years from August 10, 1939, and in connection with offer, etc., in interstate commerce and in District of Columbia, of cigars, representing, through the use of the words "Havana" or "Habana", alone or in conjunction with any other word or words, or through the use of any other words of similar import and effect, or in any other manner, that cigars not manufactured entirely from tobacco grown on the Island of Cuba are Havana cigars, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, H. N. Heusner & Son, Docket 2355, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on May 29, 1937, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on August 10, 1939, the United States Circuit Court of Appeals for the Third Circuit rendered its decree modifying the aforesaid order of the Commission so as to allow the respondent two years from the date thereof within which to eliminate the word "Havana" from the brand name and labels of cigars not made of Havana tobacco and sold by it as "Heusner's Original Havana Smokers" and "Martinez Havana Smokers;"

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said Court decree:

It is ordered, That the respondent, H. N. Heusner & Son, a corporation, its officers, representatives, employees or agents, individually or corporate, on and after two years from August 10, 1939, shall cease and desist, in connection with the offering for sale, sale and distribution of cigars in interstate commerce and in the District of Columbia:

1. From representing, through the use of the words "Havana" or "Habana", alone or in conjunction with any other word or words, or through the use of any other words of similar import and effect, or in any other manner, that cigars not manufactured entirely from tobacco grown on the Island of Cuba are Havana cigars.

It is hereby further ordered, That within the period of two years and thirty days from August 10, 1939, the respondent, H. N. Heusner & Son, a corporation, be, and it hereby is, directed and ordered to file with the Commission a report in writing setting forth with particularity the manner in which it has complied with the terms of the modified order herein.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1369; Filed, April 4, 1940; 10:33 a. m.]

[Docket No. 2578]

IN THE MATTER OF BEAR MILL MANUFACTURING COMPANY, INC.

§ 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer or seller—Manufacturer:* § 3.96 (b) (5) *Using misleading name—Vendor—Producer or laboratory status of dealer or seller.* Representing, directly or by implication, in connection with sale, etc., of cotton and rayon fabrics in interstate commerce or in the District of Columbia, through the use of the words "mills" or "manufacturing", alone or in conjunction with other words, as part of respondent's corporate or trade name, or in any other manner, or through any other means or device, that respondent manufactures the product which it sells, until and unless it actually owns and operates or directly and absolutely controls the mill or factory wherein such products are made, prohibited; subject to the provision, however, that respondent may continue to use its corporate name, Bear Mill Manufacturing Company, Inc., on its stationery, folders, labels, cartons and advertising when the words "Converters, Not Manufactureres of Textiles" are appended thereto and used in connection therewith. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Bear Mill Manufacturing Company, Inc., Docket 2578, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on April 5, 1937 the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on July 5, 1938, the United States Circuit Court of Appeals for the Second Circuit rendered its opinion and on July 26, 1938 issued its order modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said Court order:

It is ordered, That the respondent, Bear Mill Manufacturing Company, Inc., its officers, representatives, agents and employees, in connection with the sale and distribution of cotton and rayon fabrics, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Representing, directly or by implication, through the use of the words "mills" or "manufacturing", along or in conjunction with other words, as part of its corporate or trade name, or in any other manner, or through any other means or device, that it manufactures the product which it sells until and unless it actually owns and operates or directly and absolutely controls the mill or factory wherein such products are made; provided, however, respondent may continue to use its corporate name, Bear Mill Manufacturing Company, Inc., on its stationery, folders, labels, cartons and advertising when the words "Converters, Not Manufacturers of Textiles" are appended thereto and used in connection therewith.

It is further ordered, That the respondent shall, within thirty (30) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1370; Filed, April 4, 1940; 10:33 a. m.]

[Docket No. 2775]

IN THE MATTER OF HELEN ARDELLE, INC.

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in interstate commerce, of candy, to jobbers and wholesalers for resale to retailers, or to retailers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or

gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Helen Ardelle, Inc., Docket 2775, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices — In merchandising.* Supplying, etc., in connection with offer, etc., in interstate commerce, of candy, wholesalers and jobbers or retailers with assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Helen Ardelle, Inc., Docket 2775, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Packing, etc., in the same assortment of candy for sale to public at retail, in connection with offer, etc., in interstate commerce, of candy, boxes of candy, together with "punchboard", which is for use, or may be or is designed to be used, in distributing or selling said candy to the public at retail, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Helen Ardelle, Inc., Docket 2775, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Furnishing to retailers and wholesalers and jobbers, in connection with offer, etc., in interstate commerce, of candy, "punchboard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Helen Ardelle, Inc., Docket 2775, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on June 30, 1937 the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on February 14, 1939, the United States Circuit Court of Appeals for the Ninth Circuit rendered its opinion and issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree;

It is ordered, That the respondent, Helen Ardelle, Inc., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce of candy, do forthwith cease and desist from:

(1) Selling and distributing to jobbers and wholesale dealers for resale to retail dealers, or to retail dealers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or gift enterprise;

(2) Supplying to or placing in the hands of wholesale dealers and jobbers or retail dealers assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public;

(3) Packing or assembling in the same assortment of candy for sale to the public at retail boxes of candy, together with a device commonly called a "punchboard", which punchboard is for use, or which may be or is designed to be used, in distributing or selling said candy to the public at retail;

(4) Furnishing to retail and wholesale dealers and jobbers a device commonly called a "punchboard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That respondent, Helen Ardelle, Inc., a corporation, shall, within thirty days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] JOE L. EVINS, *Acting Secretary.*

[F. R. Doc. 40–1371; Filed, April 4, 1940; 10:33 a. m.]

[Docket No. 2782]

IN THE MATTER OF BROWN & HALEY

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in interstate commerce, of candy, to jobbers and wholesalers for resale to retailers, or to retailers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Brown & Haley, Docket 2782, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in interstate commerce, of candy, wholesalers and jobbers or retailers with assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Brown & Haley, Docket 2782, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Packing, etc., in the same assortment of candy for sale to the public at retail, in connection with offer, etc., in interstate commerce, of candy, boxes of candy, together with a "punchboard" which is for use, or may be or is designed to be used, in distributing or selling said candy to the public at retail, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Brown & Haley, Docket 2782, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Furnishing to retailers and wholesalers and jobbers, in connection with offer, etc., in interstate commerce, of candy, "punchboard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Brown & Haley, Docket 2782, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on June

30, 1937, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on February 14, 1939, the United States Circuit Court of Appeals for the Ninth Circuit rendered its opinion and issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree:

It is ordered, That the respondent, Brown & Haley, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce of candy, do forthwith cease and desist from:

(1) Selling and distributing to jobbers and wholesale dealers for resale to retail dealers, or to retail dealers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or gift enterprise;

(2) Supplying to or placing in the hands of wholesale dealers and jobbers or retail dealers assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public;

(3) Packing or assembling in the same assortment of candy for sale to the public at retail boxes of candy, together with a device commonly called a "punchboard", which punchboard is for use, or which may be or is designed to be used, in distributing or selling said candy to the public at retail;

(4) Furnishing to retail and wholesale dealers and jobbers a device commonly called a "punchboard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That the respondent, Brown & Haley, a corporation, shall, within thirty (30) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1372; Filed, April 4, 1940; 10:34 a. m.]

[Docket No. 2800]

IN THE MATTER OF CANTERBURY CANDY MAKERS, INC.

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in interstate commerce, of candy, to jobbers and wholesalers for resale to retailers, or to retailers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Canterbury Candy Makers, Inc., Docket 2800, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices — In merchandising.* Supplying, etc., in connection with offer, etc., in interstate commerce, of candy, wholesalers and jobbers or retailers with assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Canterbury Candy Makers, Inc., Docket 2800, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Packing, etc., in the assortment of candy for sale to the public at retail, in connection with offer, etc., in interstate commerce, of candy, boxes of candy, together with a "punchboard" which is for use, or may be or is designed to be used, in distributing or selling said candy to the public at retail, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Canterbury Candy Makers, Inc., Docket 2800, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Furnishing to retailers and wholesalers and jobbers, in connection with offer, etc., in interstate commerce, of candy, "punchboard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Canterbury Candy Makers, Inc., Docket 2800, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on July 6, 1937, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on February 14, 1939, the United States Circuit Court of Appeals for the Ninth Circuit rendered its opinion and issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree;

It is ordered, That the respondent, Canterbury Candy Makers, Inc., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce of candy, do forthwith cease and desist from:

(1) Selling and distributing to jobbers and wholesale dealers for resale to retail dealers, or to retail dealers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or gift enterprise;

(2) Supplying to or placing in the hands of wholesale dealers and jobbers or retail dealers assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public;

(3) Packing or assembling in the same assortment of candy for sale to the public at retail boxes of candy, together with a device commonly called a "punchboard", which punchboard is for use, or which may be or is designed to be used, in distributing or selling said candy to the public at retail;

(4) Furnishing to retail and wholesale dealers and jobbers a device commonly called a "punchboard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That the respondent, Canterbury Candy Makers,

Inc., a corporation, shall, within thirty (30) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1373; Filed, April 4, 1940; 10:34 a. m.]

[Docket No. 2833]

IN THE MATTER OF IMPERIAL CANDY COMPANY

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in interstate commerce, of candy, to jobbers and wholesalers for resale to retailers, or to retailers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Imperial Candy Company, Docket 2833, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in interstate commerce, of candy, wholesalers and jobbers or retailers with assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Imperial Candy Company, Docket 2833, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Packing, etc., in the same assortment of candy for sale to the public at retail, in connection with offer, etc., in interstate commerce, of candy, boxes of candy, together with a "punchboard" which is for use, or may be or is designed to be used, in distributing or selling said candy to the public at retail, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Imperial Candy Company, Docket 2833, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Furnishing to retailers and wholesalers and jobbers, in connection with offer, etc., in interstate commerce, of candy, "punchboard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Imperial Candy Company, Docket 2833, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on July 9, 1937, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on February 14, 1939, the United States Circuit Court of Appeals for the Ninth Circuit rendered its opinion and issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree:

It is ordered, That the respondent, Imperial Candy Company, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce of candy, do forthwith cease and desist from:

(1) Selling and distributing to jobbers and wholesale dealers for resale to retail dealers, or to retail dealers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or gift enterprise;

(2) Supplying to or placing in the hands of wholesale dealers and jobbers or retail dealers assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public;

(3) Packing or assembling in the same assortment of candy for sale to the public at retail boxes of candy, together with a device commonly called a "punchboard", which punchboard is for use, or which may be or is designed to be used, in distributing or selling said candy to the public at retail;

(4) Furnishing to retail and wholesale dealers and jobbers a device commonly called a "punchboard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That respondent, Imperial Candy Company, a corporation, shall, within thirty (30) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1374; Filed, April 4, 1940; 10:34 a. m.]

[Docket No. 2834]

IN THE MATTER OF ROGERS CANDY COMPANY

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in interstate commerce, of candy, to jobbers and wholesalers for resale to retailers, or to retailers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Rogers Candy Company, Docket 2834, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in interstate commerce, of candy, wholesalers and jobbers or retailers with assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Rogers Candy Company, Docket 2834, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Packing, etc., in the same assortment of candy for sale to the public at retail, in connection with offer, etc., in interstate commerce, of candy, boxes of candy, together with a "punchboard" which is for use, or may be or is designed to be used, in distributing or selling said candy to the public at retail, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Rogers Candy Company, Docket 2834, March 25, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to retailers and wholesalers and jobbers, in connection with offer, etc., in interstate commerce, of candy, "punchboard", either with assortments of candy or separately, bearing a legend or legends or

statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Rogers Candy Company, Docket 2834, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on July 14, 1937, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on February 14, 1939, the United States Circuit Court of Appeals for the Ninth Circuit rendered its opinion and issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree:

It is ordered, That the respondent, Rogers Candy Company, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce of candy, do forthwith cease and desist from:

(1) Selling and distributing to jobbers and wholesale dealers for resale to retail dealers, or to retail dealers direct, candy so packed and assembled that sales of such candy to the general public are to be made by means of a lottery, gaming device or gift enterprise;

(2) Supplying to or placing in the hands of wholesale dealers and jobbers or retail dealers assortments of candy whose contents are arranged to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public;

(3) Packing or assembling in the same assortment of candy for sale to the public at retail boxes of candy, together with a device commonly called a "punchboard", which punchboard is for use, or which may be or is designed to be used, in distributing or selling said candy to the public at retail;

(4) Furnishing to retail and wholesale dealers and jobbers a device commonly called a "punchboard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That respondent, Rogers Candy Company, a corporation, shall, within thirty (30) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] JOE L. EVINS, *Acting Secretary.*

[F. R. Doc. 40–1375; Filed, April 4, 1940; 10:35 a. m.]

[Docket No. 2869]

IN THE MATTER OF BELMONT LABORATORIES, INC.

§ 3.6 (1) *Advertising falsely or misleadingly—Indorsements and testimonials:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (ee5) *Advertising falsely or misleadingly—Tests:* § 3.18 *Claiming indorsements or testimonials falsely.* Representing, directly or through use of testimonials or indorsements, or in any other manner, in connection with offer, etc., in interstate commerce, of respondent's "Mazon", or other similar medicinal products, that said "Mazon" is a competent remedy or cure for eczema, acne, dandruff, alopecia and other disorders and ailments manifested by diseased conditions of the skin, or that said "Mazon" has been clinically proved permanently to eliminate said diseases and other disorders and ailments manifested as aforesaid, prohibited; unless such representations are limited to those types of said diseases and disorders which are not caused by, or associated with, a systemic or metabolic disorder, or are not caused by syphilis. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Belmont Laboratories, Inc., Docket 2869, March 25, 1940]

§ 3.6 (j10) *Advertising falsely or misleadingly—History of product:* § 3.6 (l) *Advertising falsely or misleadingly—Indorsements and testimonials:* § 3.6 (dd10) *Advertising falsely or misleadingly—Success, use or standing:* § 3.6 (ff10) *Advertising falsely or misleadingly—Unique nature or advantages:* § 3.18 *Claiming indorsements or testimonials falsely.* Representing, directly or through use of testimonials or indorsements, or in any other manner, in connection with offer, etc., in interstate commerce, of respondent's "Mazon", or other similar medicinal product, that said "Mazon" is used exclusively by well-known specialists in the treatment of various skin disorders, and that physicians, throughout the country, have successfully prescribed "Mazon" to permanently eliminate or cure ailments, disorders and diseased conditions of the skin, irrespective of the type of the particular disorder or the cause or condition thereof, and representing, in said connection, that such product is the original or only treatment of its character for skin disorders, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Belmont Laboratories, Inc., Docket 2869, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on January 6, 1938, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on March 29, 1939, the United States Circuit Court of Appeals for the Third Circuit rendered its opinion and issued its mandate modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said mandate:

It is ordered, That the respondent, Belmont Laboratories, Inc., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of a medicinal product now designated as Mazon, or of any other medicinal product containing substantially the same ingredients, or possessing the same properties, sold under that name or any other name, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing:

(1) Directly or through the use of testimonials or indorsements, or in any other manner

(a) That Mazon is a competent remedy or cure for eczema, acne, dandruff, alopecia and other disorders and ailments manifested by diseased conditions of the skin unless such representations are limited to those types of said diseases and disorders which are not caused by, or associated with, a systemic or metabolic disorder, or are not caused by syphilis;

(b) That Mazon has been clinically proved to permanently eliminate eczema, acne, dandruff, alopecia and other disorders and ailments manifested by diseased conditions of the skin unless such representations are limited to those types of said diseases and disorders which are not caused by, or associated with, a systemic or metabolic disorder, or are not caused by syphilis;

(c) That the product is used exclusively by well-known specialists in the treatment of various skin disorders;

(d) That physicians, throughout the country, have successfully prescribed Mazon to permanently eliminate or cure ailments, disorders and diseased conditions of the skin, irrespective of the type of the particular disorder or the cause or condition thereof;

(2) That the product is the original or only treatment of its character for skin disorders.

It is further ordered, That the respondent shall, within thirty (30) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1376; Filed, April 4, 1940; 10:35 a. m.]

[Docket No. 3164]

IN THE MATTER OF FIORET SALES COMPANY, INC., ET AL.

§ 3.66 (k) (4) *Misbranding or mislabeling—Source or origin—Place—Domestic product as imported.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of perfumes, through the use of such words as "Les Parfums des Jardine de Fioret", or through the use of any foreign words or phrases, or through any other means or device, or in any manner, that perfumes manufactured or compounded in the United States are made or compounded in France or in any other foreign country, or are imported, prohibited; subject to the provisions that, so long as respondents obey terms of such prohibition, they may imprint upon or affix to packages, cartons, etc., of their perfumes words "The concentrates of which these perfumes are made were produced in France and, as such, were imported into the United States where they were combined or diluted with domestic alcohol and the resulting perfume was bottled in United States of America." (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45l) [Modified cease and desist order, Fioret Sales Company, Inc., et al., Docket 3164, March 25, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

IN THE MATTER OF FIORET SALES COMPANY, INC., A CORPORATION AND MURRAY W. MORIN AND IRVING UNTERMAN, INDIVIDUALLY, AND AS OFFICERS OF FIORET SALES COMPANY, INC.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on February 19, 1938 the Commission made its findings as to the facts herein and concluded therefrom that respondents had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on December 5, 1938, the United States Circuit Court of Appeals for the Second Circuit rendered its opinion and on April 28, 1939 issued its final decree affirming the aforesaid order of the Commission by modifying said order in certain particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree:

It is ordered, That the respondents, Fioret Sales Company, Inc., a corporation, its officers, representatives, agents and employees, and Murray W. Morin and Irving Unterman, individually, and as officers of respondent Fioret Sales Company, Inc., in connection with the offering for sale, sale and distribution of perfumes in interstate commerce or in the District of Columbia, do forthwith cease and desist from, directly or through implication:

1. Representing through the use of such words as "Les Parfums des Jardine de Fioret", or through the use of any foreign words or phrases, or through any other means or device, or in any manner, that perfumes manufactured or compounded in the United States are made or compounded in France or in any other foreign country, or are imported;

It is hereby further ordered, That, so long as respondents shall obey the terms of prohibition 1 hereof, that they be, and hereby are, permitted and authorized to imprint upon, or affix to, packages, cartons, bottles, or other containers of their said perfumes the following words, to-wit: "The concentrates of which these perfumes are made were produced in France and, as such, were imported into the United States where they were combined or diluted with domestic alcohol and the resulting perfume was bottled in United States of America."

It is further ordered, That the respondents shall, within thirty (30) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1378; Filed, April 4, 1940; 10:35 a. m.]

[Docket No. 1574]

IN THE MATTER OF STANDARD EDUCATION SOCIETY, ET AL.

§ 3.69 (b) (4) *Misrepresenting oneself and goods—Goods—Free Goods:* § 3.69 (c) (2.5) *Misrepresenting oneself and goods—Prices—Exaggerated as regular and customary:* § 3.72 (e) *Offering deceptive inducements to purchase—Free goods.* Advertising or representing in any manner to purchasers or prospective purchasers, in connection with offer, etc., in commerce among the several States or in the District of Columbia, of any books, set of books or publications, that any books or set of books offered for sale and sold by respondents will be given free of cost to said purchasers or prospective purchasers, or advertising or representing in any manner, in said connection, that a certain number of sets or any set of books offered for sale or sold by respondents has been reserved to be given away free of cost to selected persons as means of advertising, or for any other purpose, or that purchasers or prospective purchasers of respondents' publications are only buying or paying for loose-leaf supplements intended to keep the set of books up-to-date for a period of ten years, or that the usual price at which respondents' publications are sold is higher than the price at which they are offered in such advertisements or representations, when such are not the facts, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45 (h) to 45 (k), inclusive) [Modified cease and desist order, Standard Education Society et al., Docket 1574, March 28, 1940]

§ 3.69 (b) (5.5) *Misrepresenting oneself and goods—Goods—History of product:* § 3.69 (b) (6) *Misrepresenting oneself and goods—Goods—Identity:* § 3.69 (b) (7.5) *Misrepresenting oneself and goods—Goods—Manufacture or preparation:* § 3.69 (b) (9) *Misrepre-*

senting oneself and goods—Goods—Old, secondhand or reconstructed as new. Advertising or representing in any manner, in connection with offer, etc., in commerce among the several States or in the District of Columbia, of any books, set of books or publications, that respondents' publication is a recently completed, new, and up-to-date encyclopedia, when such is not the fact, or, in said connection, selling or offering for sale any set of books of the same text and content material under more than one name or title, or advertising or representing any person as a contributor to or editor of any set of books or publications who has not performed services in making or preparing contributions to or who has not performed services in the editing of such books or publications and consented that he may be held out to the public as a contributor or as an editor or assistant editor, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45 (h) to 45 (k), inclusive) [Modified cease and desist order, Standard Education Society et al., Docket 1574, March 28, 1940]

§ 3.18 *Claiming indorsements or testimonials falsely:* § 3.69 (b) (7) *Misrepresenting oneself and goods—Goods—Indorsements.* Advertising or representing, in connection with offer, etc., in commerce among the several States or in the District of Columbia, of any books, set of books or publications, that any person has given testimonials or recommendations for and concerning respondents' publications, when such is not the fact, or, in said connection, publishing or causing to be published and circulated testimonials or recommendations of and concerning respondents' publications alleged to have been made by any person when such testimonials or recommendations have not been made by such person, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45 (h) to 45 (k), inclusive) [Modified cease and desist order, Standard Education Society, et al., Docket 1574, March 28, 1940]

§ 3.69 (c) (5) *Misrepresenting oneself and goods—Prices—Usual as reduced or to be increased:* § 3.72 (n) *Offering deceptive inducements to purchase—Special offers.* Advertising or representing in any manner, to purchasers or prospective purchasers, in connection with offer, etc., in commerce among the several States or in the District of Columbia, of any home study course of instruction, that the course of instruction is offered for sale and sold to the purchasers or prospective purchasers at a specially reduced price, when such is not the fact, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45 (h) to 45 (k), inclusive) [Modified cease and desist order, Standard Education Society, et al., Docket 1574, March 28, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

IN THE MATTER OF STANDARD EDUCATION SOCIETY, A CORPORATION, STANDARD ENCYCLOPEDIA CORPORATION, H. M. STANFORD, INDIVIDUALLY AND AS PRESIDENT AND DIRECTOR OF STANDARD EDUCATION SOCIETY AND AS PRESIDENT, DIRECTOR AND INCORPORATOR OF STANDARD ENCYCLOPEDIA CORPORATION, W. H. WARD, INDIVIDUALLY AND AS SECRETARY AND DIRECTOR OF STANDARD EDUCATION SOCIETY AND AS DIRECTOR AND INCORPORATOR OF STANDARD ENCYCLOPEDIA CORPORATION, AND A. J. GREENER, INDIVIDUALLY AND AS INCORPORATOR OF STANDARD ENCYCLOPEDIA CORPORATION

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on December 24, 1931, the Commission made its findings as to the facts herein and concluded therefrom that respondents had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on November 8, 1937, the Supreme Court of the United States reversed the decree of the Circuit Court of Appeals for the Second Circuit rendered on December 21, 1936, modifying in certain respects the aforesaid order to cease and desist, except as to the modification of clause ten thereof, and issued its mandate remanding the case to said Circuit Court of Appeals for further proceedings in conformity with said opinion, and it still further appearing that on December 10, 1937, said Circuit Court of Appeals ordered that the aforesaid decision of the Supreme Court be made its decision and that said Circuit Court of Appeals on May 20, 1938, resettled its aforesaid order of December 10, 1937, and issued its final decree in conformity with the aforesaid mandate of the Supreme Court of the United States;

Now, therefore, pursuant to the provisions of subsections (h) to (k), inclusive, of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the aforesaid Court orders:

It is hereby ordered, That the respondents, Standard Education Society, a corporation; Standard Encyclopedia Corporation; H. M. Stanford; W. H. Ward; and A. J. Greener, and each of them, their officers, agents, representatives and employees, in connection with the offering for sale of any books, set of books, or publications in commerce among the several states of the United States or in the District of Columbia, cease and desist from:

(1) Advertising or representing in any manner to purchasers or prospective purchasers that any books or set of books offered for sale and sold by them will be given free of cost to said purchasers or prospective purchasers, when such is not the fact;

(2) Advertising or representing in any manner that a certain number of sets or any set of books offered for sale or sold by them has been reserved to be given away free of cost to selected persons as a means of advertising, or for any other purpose, when such is not the fact;

(3) Advertising or representing in any manner that purchasers or prospective purchasers of respondents' publications are only buying or paying for loose-leaf supplements intended to keep the set of books up-to-date for a period of ten years, when such is not the fact;

(4) Advertising or representing in any manner that respondents' publication is a recently completed, new, and up-to-date encyclopedia, when such is not the fact;

(5) Selling or offering for sale any set of books of the same text and content material under more than one name or title;

(6) Advertising or representing in any manner that the usual price at which respondents' publications are sold is higher than the price at which they are offered in such advertisements or representations, when such is not the fact;

(7) Advertising or representing any person as a contributor to or editor of any set of books or publications who has not performed services in making or preparing contributions to or who has not performed services in the editing of such books or publication and consented that he may be held out to the public as a contributor or as an editor or assistant editor;

(8) Advertising or representing that any person has given testimonials or recommendations for and concerning respondents' publications, when such is not the fact;

(9) Publishing or causing to be published and circulated testimonials or recommendations of and concerning respondents' publications alleged to have been made by any person when such testimonials or recommendations have not been made by such person.

It is further ordered, That the respondents, Standard Education Society, a corporation, H. M. Stanford, W. H. Ward, and A. J. Greener, and each of them, their officers, agents, representatives and employees, in connection with the offering for sale of any home study course of instruction in commerce

among the several states of the United States or in the District of Columbia, do cease and desist from:

(1) Advertising or representing in any manner to purchasers or prospective purchasers that the course of instruction is offered for sale and sold to the purchasers or prospective purchasers at a specially reduced price, when such is not the fact.

It is further ordered, That the respondents shall, within thirty (30) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1368; Filed, April 4, 1940; 10:33 a. m.]

[Docket No. 3090]

IN THE MATTER OF CALIFORNIA RICE INDUSTRY ET AL.

§ 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* (1) Fixing and maintaining uniform prices, in connection with offer, etc., in commerce, of rice and rice products, and on the part of respondent California Rice Industry, respondent rice mills or rice milling companies, Rice Growers Association of California, and other respondents, their successors, etc., and by agreement, etc., between or among any two or more of them or with others; and (2) compiling, publishing and distributing, as aforesaid, any joint or uniform list or compilation of prices; and (3) adopting, as aforesaid, any joint or uniform price list or other device which fixes prices; and (4) discussing, as aforesaid, through the medium of meetings of the California Rice Industry or its Marketing and Crop Boards, or in any similar manner, uniform prices, terms, discounts, agreements upon prices, by resolution or otherwise, or employing any similar device which fixes or tends to fix prices, or which is designed to equalize or make uniform the selling prices, terms, discounts or policies of respondent millers; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, California Rice Industry, et al., Docket 3090, March 28, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on March 26, 1938, the Commission made its findings as to the facts herein and concluded therefrom that respondents had violated the provisions of Section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on March 17, 1939, the United States Circuit Court of Appeals for the Ninth Circuit rendered its opinion and issued its decree modify the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree:

It is ordered, That the respondents, California Rice Industry; Harry M. Creech, George W. Brewer, Florence M. Douglas, J. S. Ritterband, W. T. Welisch, I. Yamakawa, O. F. Zebal, R. A. Renaud, Hugh Baber, Leon Brink, N. F. Dougherty, Ernest Grell, Lewis Manor, and A. E. Scarlett; Charles S. Morse, Allen A. Morse, Nelson B. Morse, Clarence G. Morse, and Gertrude Morse, trading as Capital Rice Mills; Ellen S. Grosjean and Eileen Callaghan, trading as C. E. Grosjean Rice Milling Company; William Crawford, trading as Woodland Rice Milling Company, Growers Rice Milling Company, Pacific Trading Company, Inc., Phillips Milling Company, Rice Growers Association of California, and Rosenberg Brothers & Company, their successors, officers, agents, and employees, do forthwith cease and desist, in connection with the offering for sale, sale and distribution of rice and rice products in commerce as defined in Section 4 of the Federal Trade Commission Act, from doing and performing by agreement, combination or conspiracy between or among any two or more of said respondents, or with others, the following acts and things:

1. Fixing and maintaining uniform prices.

2. Compiling, publishing and distributing any joint or uniform list or compilation of prices.

3. Adopting any joint or uniform price list or other device which fixes prices.

4. Discussing through the medium of meetings of the California Rice Industry or its Marketing and Crop Boards, or in any similar manner, uniform prices, terms, discounts, agreements upon prices, by resolution or otherwise, or employing any similar device which fixes or tends to fix prices, or which is designed to equalize or make uniform the selling prices, terms, discounts or policies of respondent millers.

It is further ordered, That the respondents shall, within thirty (30) days after the service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1377; Filed, April 4, 1940; 10:35 a. m.]

[Docket No. 3930]

IN THE MATTER OF WASHINGTON LAUNDRY

§ 3.6 (a) (3.5) *Advertising falsely or misleadingly — Business status, advantages or connections of advertiser—Business methods and policies:* § 3.6 (ff5) *Advertising falsely or misleadingly—Undertakings, in general:* § 3.66 (c25) *Misbranding or mislabeling—Methods and policies:* § 3.66 (k5) *Misbranding or mislabeling—Undertakings, in general.* Representing, directly or by implication, in connection with offer, etc., in commerce, of laundry, dry cleaning or dyeing services, that wearing apparel and other articles intrusted or delivered to respondent for laundering or cleaning will be washed with Ivory Soap, or any other designated cleaning agent, when such wearing apparel and other articles are not washed or cleaned with Ivory Soap or the particular cleaning agent designated, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Washington Laundry, Docket 3930, March 28, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

IN THE MATTER OF JOSEPH T. GIBBONS, TRADING AS WASHINGTON LAUNDRY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint except that he is not now using and has not since on or about December 15, 1938, used laundry boxes or containers printed as described in the complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission

having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Joseph T. Gibbons, trading as Washington Laundry, in connection with the offering for sale, sale or solicitation of laundry, dry cleaning or dyeing services in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that wearing apparel and other articles intrusted or delivered to him for laundering or cleaning will be washed with Ivory Soap, or any other designated cleaning agent, when such wearing apparel and other articles are not washed or cleaned with Ivory Soap or the particular cleaning agent designated.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1366; Filed, April 4, 1940; 10:32 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 4th day of April, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

[File No. 21-349]

PART 147—TRADE PRACTICE RULES FOR THE FOLDING PAPER BOX INDUSTRY

Promulgation

Due proceedings[1] having been held under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I and Group II, as hereinafter set forth, which have been approved and received, respectively, by the Commission in this proceeding, be promulgated as of April 5, 1940.

Statement by the Commission

Trade practice rules for the Folding Paper Box Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under its trade practice conference procedure.

The rules relate to the various types and sizes of folding paper cartons, boxes, and containers which are the products of this industry, and to their sale and distribution by manufacturers, jobbers, distributors, dealers, or other marketers. As promulgated, the rules are directed to the elimination and prevention of unfair methods of competition and various other unfair trade practices, and are issued in the interest of protecting industry, trade, and the public from the harmful effects of such unfair methods or practices.

According to information furnished the Commission, the manufacturers' volume of business, annually, is estimated at $100,000,000.

The proceeding for the establishment of trade practice rules was instituted upon application of members of the industry. In the course thereof, and pursuant to public notice issued by the Commission, proposed rules for the industry were made available and all interested or affected parties were afforded opportunity to present their views to the Commission, including such pertinent information, suggestions, or objections as they desired to submit, and to be heard in the premises. Accordingly, public hearing pursuant to such notice was held in Washington, D. C., February 6, 1940. Thereafter, and upon consideration of the entire matter, final action was taken by the Commission whereby it approved and received, respectively, the rules appearing herein under Group I and Group II. These provisions replace former rules for the Paperboard Industry which had been promulgated in 1929, and which are no longer in effect.

THE RULES

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in the Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited, within the purview of the Federal Government, by acts of Congress, as construed in the decisions of the Federal Trade Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization, of such unlawful practices in or directly affecting interstate commerce.

§ 147.1 *Misrepresentation of industry products.* It is an unfair trade practice to make or publish, or cause to be made or published, directly or indirectly, any false, misleading, or deceptive statement or representation, by way of advertisement or otherwise, concerning the grade, quality, quantity, use, size, material, finish, strength, thickness, content, origin, preparation, manufacture, or distribution of any product of the industry, or in any other material respect. (Rule 1)

§ 147.2 *Misrepresentation as to character of business.* (a) It is an unfair trade practice for any person, partnership, or corporation, by trade or corporate name or otherwise, to hold himself or itself out as being a manufacturer or producer of folding paper boxes or allied products when such is not true in fact.

(b) It is an unfair trade practice for any person, partnership, or corporation, in the conduct of business, to misrepresent in any manner the character, nature, or status of the business of such person, partnership, or corporation. (Rule 2)

§ 147.3 *Misrepresenting products as conforming to standards.* Falsely or deceptively representing, through advertising, stamping, branding, or otherwise, that any product of the industry conforms to a required or recognized standard of size, construction, weight, or quality, when such is not the fact, is an unfair trade practice. (Rule 3)

§ 147.4 *Misbranding.* The false or deceptive marking or branding of products of the industry with respect to the grade, quality, quantity, use, size, material, finish, strength, thickness, content, origin, preparation, manufacture, or distribution of such products, or in any other material respect, is an unfair trade practice. (Rule 4)

§ 147.5 *Use of deceptive selling methods.* The sale or offering for sale of any product of the industry by any false or deceptive means or device which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public as to the grade, quality, quantity, use, size, material, finish, strength, thickness, content, origin, preparation, manufacture, or distribution of any product of the industry, or in any other material respect, is an unfair trade practice. (Rule 5)

§ 147.6 *Substitution of products.* The practice of shipping or delivering products which do not conform to samples submitted, to specifications upon which the sale is consummated, or to representations made prior to securing the order, without the consent of the purchasers to such substitutions, or with the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice. (Rule 6)

§ 147.7 *False and misleading price quotations, etc.* The publishing or circulating by any member of the industry of false or misleading price quotations, price lists, terms or conditions of sale, with the capacity and tendency or effect of thereby misleading or deceiving the purchasing or consuming public, is an unfair trade practice. (Rule 7)

[1] 5 F.R. 242.

§ 147.8 *Inducing breach of contract.* Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice. (Rule 8)

§ 147.9 *Defamation of competitors or disparagement of their products.* The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice. (Rule 9)

§ 147.10 *Enticing away employees of competitors.* Wilfully enticing away the employees of competitors with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses is an unfair trade practice. (Rule 10)

§ 147.11 *Unfair threats of infringement suits.* The circulation of threats of suit for infringement of patents or trade-marks among customers or prospective customers of competitors, not made in good faith but for the purpose or with the effect of harassing or intimidating such customers or prospective customers, or of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice. (Rule 11)

§ 147.12 *Commercial bribery.* It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. (Rule 12)

§ 147.13 *Procurement of competitors' confidential information by unfair means and wrongful use thereof.* It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained in such a manner as to injure such competitor in his business or to suppress competition or unreasonably restrain trade. (Rule 13)

§ 147.14 *Imitation or simulation of trade-marks, trade names, etc.* The imitation or simulation of the trade-marks, trade names, brands, or labels of competitors, with the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice. (Rule 14)

§ 147.15 *Combination or coercion to fix prices, suppress competition, or restrain trade.* It is an unfair trade practice for a member of the industry or any person, firm, partnership, corporation, or association

(a) to use, directly or indirectly, any form of threat, intimidation, or coercion against any member of the industry to unlawfully fix, maintain, or enhance prices, suppress competition, or restrain trade; or

(b) to enter into or take part in, directly or indirectly, any agreement, understanding, combination, conspiracy, or concert of action with one or more members of the industry, or with one or more persons, firms, partnerships, corporations, or associations, to fix, maintain, or enhance prices, suppress competition, or restrain trade. (Rule 15)

§ 147.16 (a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[1] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[1] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[1] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce[1] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce[1] to discriminate in favor of one purchaser against another purchaser or purchasers of a

[1] As here used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That this shall not apply to the Philippine Islands.

commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this Rule 16.

(f) *Purchases by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.* The foregoing provisions of this Rule 16 relate to practices within the purview of the Robinson-Patman Antidiscrimination Act, which Act and the application thereunder of this Rule 16 are subject to the limitations, expressed in the amendment to such Robinson-Patman Antidiscrimination Act, which amendment was approved May 26, 1938, and reads as follows:

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled, That nothing in the Act approved June 19, 1936 (Public, Numbered 692, Seventy-Fourth Congress, second session), known as the Robinson-Patman Antidiscrimination Act, shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.

(52 Stat. 446; Supp. 4 U.S.C. Title 15, Sec. 13c) (Rule 16)

§ 147.17 *False invoicing.* Withholding from or inserting in invoices any statement or information by reason of which omission or insertion a false record is made, wholly or in part, of the transaction represented on the face of such invoices with the effect of thereby misleading or deceiving the purchasing or consuming public, is an unfair trade practice. (Rule 17)

§ 147.18 *Aiding or abetting use of unfair trade practices.* It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in these rules. (Rule 18)

Group II

Compliance with the trade practice provisions embraced in the Group II rules is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. Where, however, the practice of not complying with any such Group II rules is followed in such manner as to result in unfair methods of competition, or unfair or deceptive acts or practices, corrective proceedings may be instituted by the Commission as in the case of a violation of Group I rules.

RULE A. *Repudiation or cancellation of contracts.* Lawful contracts are business obligations which should be performed in letter and in spirit. The repudiation or cancellation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry.

RULE B. *Cost records.* It is the judgment of the industry that each member should independently keep proper and accurate records for determining his costs.

Promulgated and issued by the Federal Trade Commission as of April 5, 1940.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1385; Filed, April 4, 1940; 11:49 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

CHAPTER I—VETERANS' ADMINISTRATION

TOTAL DISABILITY RATINGS UNDER PUBLIC NO. 2, 73D CONGRESS AND THE 1933 RATING SCHEDULE

APRIL 2, 1940.

1. The attention of all rating agencies is directed to the following statement of policy approved this date which is quoted herewith for the guidance of all concerned:

"Total disability ratings under Public No. 2, 73d Congress and the 1933 rating schedule may be assigned without regard to the specific provisions of the rating schedule, except as outlined herein, when the disabled person is, in the judgment of the rating agency, unable to secure or follow a substantially gainful occupation as a result of his disabilities: *Provided*, That, if there is only one disability, this disability shall be ratable at 60% or more, and that, if there are two or more disabilities, there shall be at least one disability ratable at 40% or more, and sufficient additional disability to bring the combined rating to 70% or more. Total disability ratings, when the above conditions are met, may be granted for deafness, the organic loss of speech, for the amputation or loss of use of either hand or of either lower extremity above the knee (as to these amputations and losses of use, when followed by continuous unemployability after incurrence), as single disabilities or for other organic disabilities or combinations including organic disabilities. For the purpose of Veterans Regulations 1 (a), Part III, only, the above specified 60%, 40%, and 70% percentage requirements may be reduced by 10% on the attainment of age 60; and by an additional 10% on the attainment of age 65; and there shall be no percentage requirements for total disability ratings in the cases of unemployable veterans who have attained the age of 70. The attainment of age 70 will not of itself warrant rating as permanently and totally disabled; in addition thereto disability sufficient to produce unemployability will be required. Nothing contained in this paragraph will prevent a total disability rating for such disabilities and combinations of disabilities, including loss of use of two extremities, or loss of sight of both eyes, or being helpless or bedridden, and other disabilities, as are assigned specific ratings of 100 per cent for the severity in question, but if the disabled person is employable, compliance with the terms of the schedule for such ratings will be required. When total disability under this paragraph is under consideration, the veteran will be required to submit a statement in affidavit form covering his employment, or unemployment, over a period of at least one year."

2. A disabled person meeting the regulatory or schedular requirements for 100% ratings is entitled to a total disability rating regardless of employment. Similarly, cases which do not meet the regulatory or schedular requirements, but which, in the opinion of the rating agency represent total disability on the average basis, i. e., whose employment represents highly exceptional effort or ability to overcome the handicap of disability, are entitled to Central Office consideration under R. & P. R-1142, and should be so submitted.

3. The unemployability of the individual may be established, with age, constitutional defects, limitation of occupational experience and ability, particularly limitation to manual labor, as important contributing factors. In such cases, it is important to ascertain the exact relationship between the particular manifestations of disability and resumption of work in the field of previous employment, or of other types of employment. As a requirement for total disability rating, it must be established to the satisfaction of the rating agency that the disabilities are the principal cause of the continued unemployability.

4. Such inferiorities as mental deficiency, psychopathic inferiority, etc., do not of themselves indicate disability, either partial or total. When the medical-industrial history and other evidence point to mental deficiency or psychopathic personality as important factors, it is essential to insure complete psychiatric examination and, if indicated, social service report. When neuropsychiatric disease, mental deterioration, failing memory and concentration (as with cerebral arteriosclerosis) are superimposed upon such conditions, the whole extent of social and industrial inadaptability, partial or total, in accordance with the rating schedule, and paragraph one of this service letter, will be ascribed to the disease factor. Similarly, when injury or disease, as fracture or arthritis, is superimposed upon physi-

cal defect, the whole subsequent limitation of occupational activity resulting from the defect and the superimposed disease or injury will be ascribed to the disease or traumatism.

5. It is the policy of the Veterans Administration to resolve the benefit of all reasonable doubt in favor of claimants, to the end that every veteran who is unable to secure and follow substantially gainful employment, with disability as the cause of such inability, will be given full consideration. Rating agencies will exercise great care in the determination of total disability and permanent and total disability to make sure that all claims are properly rated, based on the facts found. Any case in which unemployability is established, but in which the above prescribed requirements for total disability ratings, in service connected cases, or for permanent total disability ratings in non-service connected cases, are not met, will be referred to the Central Office, after proper development, under R. & P. R–1142.

6. Pending promulgation of the first paragraph above as a regulation, this Service Letter, dated April 2, 1940, will be cited as authority for ratings under its terms.

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 40–1380; Filed, April 4, 1940; 11:17 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

NCR–401–A

1940 AGRICULTURAL CONSERVATION PROGRAM FOR ADAIR COUNTY, IOWA

CONTENTS

The fundamental purposes of the Adair County Agricultural Conservation Program for 1940 are to operate as part of the 1940 National Agricultural Conservation Program: (1) to conserve and improve the soil resources of the Nation; (2) to stabilize and maintain adequate food supplies for consumers; and (3) to help farmers secure their fair share of the national income.

The program provides for payments to farmers to help them pay at least part of the cost involved in carrying out these purposes by diverting acreage from soil-depleting crops and uses to other uses and in carrying out approved soil-building practices.

The program is authorized by Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended. The provisions of the program are subject to such laws affecting the program as Congress may enact and are dependent upon the appropriation of funds by Congress. The amounts of the payments will be within the limits determined by such appropriation, the distribution of the funds according to the Act, as amended, the final estimate of payments which would be made in Adair County under the 1940 National Agricultural Conservation Program, and the extent of participation in the program. The rates of payment and deduction for any commodity or other item may be increased or decreased as an adjustment for participation and the funds available.

Applicability. The provisions of the 1940 Adair County Program contained in this bulletin, except Section 9, are applicable only to Adair County, Iowa, and do not apply to land owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, or other lands in which the beneficial ownership is in the United States.

For all purposes relating to the 1940 Program, farming operations and practices carried out during the program year, October 1, 1939, to September 30, 1940, will be deemed to have been carried out in 1940, but any acreage of land seeded in the fall of 1940 to a small grain crop will not for that reason be regarded as having been devoted to that crop in 1940.

SECTION 1—DEFINITIONS

(1) *North central region* means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

(2) *State committee* means the group of persons designated within any State to assist in the administration of the agricultural conservation programs in such State.

(3) *County committee* means the group of persons elected within any county to assist in the administration of the agricultural conservation programs in such county.

(4) *Community committee* means the group of persons elected within any township to assist in the administration of the agricultural conservation programs in the township.

(5) *Landlord* means a person who owns land and operates it or rents it to another person.

(6) *Tenant* means a person who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the crops produced on that land.

(7) *Person* means an individual, partnership, association, corporation, estate, or trust, and wherever applicable, a State or political subdivision of a State or any agency thereof.

(8) *Farm* means all adjacent or nearby farm land under the same ownership, whether operated by one person or field-rented in whole or in part to one or more persons, and constituting a unit with respect to the rotation of crops.

If the operator and all the owners entitled to share in the crops request and agree, a farm may include any adjacent or nearby farm land if the county committee determines that:

(a) The entire area of land is operated by the one person as part of one unit in the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land;

(b) The yields and productivity of the differently owned tracts do not vary substantially;

(c) The combination is not being made for the purpose of increasing acreage allotments or primarily for the purpose of effecting performance; and

(d) The separately owned tracts constitute a farming unit for the operator and will be regarded in the community as constituting one farm in 1940.

A tract of land will not be considered as a farm unless (1) it contains at least three acres of farm land, or (2) the gross income normally obtained each year from the production of crops on the land is at least $100.

A farm is regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling on the farm, it is regarded as located in the county in which the major portion of the farm is located.

(9) *Cropland* means farm land which in 1939 was tilled or was in regular rotation excluding any land which constitutes, or will constitute, if such tillage is continued, a wind erosion hazard to the community and excluding also any land in commercial orchards and perennial vegetables.

Land that was *not* devoted between January 1, 1935, and January 1, 1940, to the production of intertilled crops, small grain crops, or conserving crops seeded in regular rotation, should be considered *noncropland*, unless such land is suitable for the production of soil-depleting crops without clearing, draining, or irrigating; is definitely equal to or superior to the land in the community used for the production of soil-depleting crops, with respect to productivity and adaptability to the production of such crops; if tilled will not become a serious wind or water erosion hazard; and will in the normal course of the crop rotation on the farm be used for the production of soil-depleting crops.

Land that was devoted between January 1, 1935, and January 1, 1940, to the production of crops should be considered noncropland if it is no longer cropped or suitable to the production of soil-depleting crops, by reason of severe erosion, lack of clearing or draining, and is inferior to the land in the farm used for the production of soil-depleting crops, with respect to the productivity and adaptability to the production of such crops.

Land devoted to forest trees on January 1, 1940, will be considered as noncropland unless it has been devoted since January 1, 1935, to the production of intertilled crops, small grain crops, or conserving crops.

(10) *Noncrop open pasture land* means pasture land (other than rotation pasture land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

(11) *Grazing capacity of noncrop open pasture land* means the number of animal units which such land will sustain on a 12-month basis over a period of years without decreasing the stand of grass or other grazing vegetation and without injury to the forage, tree growth, or watershed.

(12) *Animal unit* means the unit of measurement used to denote grazing capacity. An animal unit as used herein shall be equal to one cow, one horse, five sheep, five goats, two calves, two colts, or the equivalent.

(13) *Special allotment* means a corn or wheat allotment.

(14) *Commercial orchards and perennial vegetables* means the acreage in planted or cultivated fruit trees, nut trees, vineyards, hops, bush fruits, strawberries, or perennial vegetables, on the farm on January 1, 1940, (excluding nonbearing orchards and vineyards), from which the major portion of the production is normally sold.

SECTION 2—GENERAL AND TOTAL SOIL-DEPLETING

(1) *General crops* means all crops and land uses classified as soil-depleting, except the crops for which a separate payment or deduction is computed for the farm. Corn on a non-corn-allotment farm and wheat on a non-wheat-allotment farm are considered as corn and wheat, respectively, for the purpose of dividing any net deductions for such crops and are also considered as general crops for the purpose of dividing the net payment or net deduction for general crops.

(2) *Non-general-allotment farm* means a farm:

(a) for which no total soil-depleting allotment or a zero allotment is determined, or

(b) for which a total soil-depleting allotment of 20 acres or less is determined and the persons having an interest in the general soil-depleting crops on the farm elect at the time the Farm Plan for Participation in the 1940 Program, NCR–403, is completed, to have the farm considered as a non-general allotment farm.

(3) *National goal.* The 1940 national goal for total soil-depleting crops is 270,000,000 to 285,000,000 acres.

(4) *County allotments.* County allotments of the total soil-depleting crops are determined by distributing the State allotment of total soil-depleting crops among the counties in the State on the basis of the total soil-depleting allotments established for the 1939 program. Due allowance is made for trends in acreage of soil-depleting crops, changes in crop classifications, and the relationship of the special allotments for 1939 to the special allotments for 1940.

(5) *Farm allotments.* Total soil-depleting allotments will be determined by the county committee with the assistance of the community committees as provided in instructions issued by the Agricultural Adjustment Administration for all farms in the county. The allotments will be determined on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion and the acreage of all soil-depleting crops, customarily grown on the farm, taking into consideration special allotments determined for the farm. The total soil-depleting allotment for any farm will compare with the allotments determined for other farms in the same community which are similar in these respects. The total soil-depleting allotments for the farms in the county will not exceed the Adair County total soil-depleting allotment of 146,148 acres.

(6) *Productivity indexes.* A county productivity index will be established for each county. It will vary among the counties as the productivity of the cropland devoted to the production of general crops in the county varies with the productivity of all cropland devoted to the production of such crops in the United States.

A productivity index for each farm will be determined on the basis of the normal yield per acre for the farm of the major soil-depleting crop in the county as compared with the normal yield per acre for such crop in the county. Where the yield of the major soil-depleting crop in the county does not accurately reflect the productivity of a farm, the yield of a crop that reflects the productivity of the farm may be used. The productivity index for such farm will be adjusted if necessary to be fair and equitable as compared with the productivity indexes for other farms in the county having similar soils and productive capacity, and as contrasted with other farms in the county having different soils and productive capacity.

The weighted average of the productivity indexes for all farms in the county will not exceed the county productivity index of 129 percent.

(7) *Payment:* (a) *General allotment farms.* $1.00 per acre adjusted for the productivity of the farm for each acre in the total soil-depleting allotment in excess of the special allotments for which payments are computed for the farm.

(b) *Non-general-allotment farms.* The payment for general crops is regarded as a payment for soil-building practices.

(8) *Deduction:* (a) *General allotment farms.* $7.25 per acre adjusted for the productivity of the farm, for each acre classified as soil-depleting in excess of the sum of (1) the total soil-depleting allotment, and (2) acreages for which special crop deductions are computed.

(b) *Non-general-allotment farms.* $7.25 per acre, adjusted for the productivity of the farm, for each acre classified as soil-depleting in excess of the sum of (1) 20 acres, and (2) the acreages for which special crop deductions are computed.

SECTION 3—WHEAT

(1) *Non-wheat-allotment farm* means a farm:

(a) for which no wheat allotment or a zero wheat allotment is determined, or

(b) for which a wheat allotment is determined and the persons having an interest in the wheat planted on the farm elect, at the time the Wheat Plan for Participation in the 1940 Program, on a form prescribed by the Agricultural Adjustment Administration, is completed, to have the farm considered as a non-wheat-allotment farm.

(2) *Acreage planted to wheat* means:

(a) The acreage seeded to wheat alone;

(b) The acreage of volunteer wheat which remains on the land after May 1, 1940;

(c) One-half of the acreage seeded to a mixture containing by weight 25 percent or more of wheat and 25 percent or more of flax; and

(d) Any other acreage seeded to a mixture containing wheat, except;

(i) Any mixture containing more than 75 percent by weight of flax; and

(ii) Any acreage devoted to a wheat mixture. However, an acreage will not be considered as having been devoted to a wheat mixture if the crops other than wheat fail to reach maturity and the wheat is permitted to reach maturity.

(3) *Wheat mixture* means a mixture of wheat and other small grains, excluding vetch, containing when seeded less than 50 percent by weight of wheat or less than 75 percent by weight of wheat when seeded with not less than 25 percent by weight of rye or barley, which are seeded in the same operation and may reasonably be expected to produce a crop containing such proportions of plants other than wheat that the crop could not be harvested as wheat for grain or seed.

(4) *National goal.* The 1940 national goal for wheat is 60 million acres to 65

million acres. The 1940 national wheat allotment is 62 million acres.

(5) *State allotments.* The State wheat allotments for States in the North Central Region are:

State:	Acres
Illinois	1,938,259
Indiana	1,601,447
Iowa	456,046
Michigan	739,792
Minnesota	1,663,684
Missouri	1,963,713
Nebraska	3,560,400
Ohio	1,838,127
South Dakota	3,245,869
Wisconsin	99,128

(6) *County allotments.* County wheat allotments are determined by distributing the State allotment among the counties in the State pro rata on the basis of the acreage seeded for wheat production, plus the acreage diverted under the agricultural adjustment and conservation programs in such counties during the 10 years 1929 to 1938, inclusive, with adjustments for abnormal weather conditions and trends in acreage.

(7) *Farm allotments.* Wheat allotments are determined by the county committee with the assistance of the community committees for farms on which wheat has been planted for harvest in one or more of the years 1937, 1938, and 1939. The allotments are determined on the basis of tillable acreage, crop rotation practices as reflected in the usual acreage of wheat on the farm, type of soil, and topography. Not more than 3 percent of the county wheat allotment is apportioned to farms in the county on which wheat is to be planted for harvest in 1940 but on which wheat was not planted for harvest in any one of the three years 1937, 1938, and 1939, on the basis of tillable acreage, crop rotation practices, type of soil, and topography. The wheat allotment for any farm will compare with the allotments determined for other farms in the same community, which are similar in these respects. The wheat allotments for the farms in Adair county will not exceed the county wheat allotment of 4,514 acres.

(8) *Normal yields.* The county committee with the assistance of the community committees will determine a normal yield for each farm for which a wheat acreage allotment is determined or a deduction computed.

(a) Where reliable records of the actual average yield per acre of wheat for the ten years 1929 to 1938 are presented by the farmer or are available to the committee, the normal yield for the farm will be the average of such yields adjusted for trends and abnormal weather conditions.

(b) If for any year of the ten-year period reliable records of the actual yield are not available or there was no actual yield because wheat was not planted on the farm, the county committee will determine the normal yield for the farm. This will be based upon all available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land. The yields so determined will be adjusted so that the weighted average of the normal yields for all farms in the county will not exceed the Adair County average yield of 15.2 bushels per acre.

(9) *Payment.* 9 cents per bushel of the normal yield per acre of wheat for the farm for each acre in the wheat allotment. On a non-wheat-allotment farm, no payment will be computed at the wheat rate for the wheat allotment determined for the farm, but payment will be computed on the wheat allotment acreage at the rate for general crops as provided in Section 2.

(10) *Deduction*—(a) *Wheat allotment farms.* 50 cents per bushel of the normal yield for the farm for each acre planted to wheat in excess of the wheat allotment.

(b) *Non-wheat-allotment farms.* 50 cents per bushel of the normal yield for the farm for each acre of wheat classified as soil-depleting in excess of the allotment, or ten acres, whichever is larger.

SECTION 4—CORN

(1) *Commercial corn area* means counties which have produced an average of at least 450 bushels of corn per farm and 4 bushels of corn per acre of farm land during the past 10 years. It also includes bordering counties containing townships producing and likely to produce an average of 450 bushels of corn per farm and 4 bushels of corn per acre of farm land.

(2) *Non-corn-allotment farm* means a farm in the commercial corn area:

(a) for which no corn allotment or a zero corn allotment is determined, or

(b) for which a corn allotment of 10 acres or less is determined and the persons having an interest in the corn planted on the farm elect at the time the Farm Plan for Participation in the 1940 Program, on a form approved by the Agricultural Adjustment Administration, is completed, to have the farm considered as a non-corn-allotment farm.

(3) *Acreage planted to corn* means the acreage of land seeded to field corn, sweet corn, or popcorn, except: (a) Any acreage of sweet corn contracted to be sold for canning or freezing; (b) any acreage of sweet corn sold for canning, roasting ears, or freezing; (c) any acreage of sweet corn to be sold or used as seed; (d) any acreage of popcorn sold or to be used as seed; (e) any acreage of sown corn used as a cover crop or green manure crop; and (f) any acreage of sweet corn or popcorn grown in home gardens for use on the farm.

(4) *National goal.* The 1940 national goal for corn is 88,000,000 to 90,000,000 acres.

(5) *Commercial area allotment.* The 1940 corn allotment for the commercial corn area is 36,638,000 acres.

(6) *State allotments.* The State corn allotments (for commercial corn counties, including the States of Kansas and Kentucky) are:

State:	Acres
Illinois	6,513,876
Indiana	3,225,400
Iowa	8,193,223
Michigan	392,095
Minnesota	3,177,524
Missouri	2,876,339
Nebraska	5,905,316
Ohio	2,396,291
South Dakota	1,393,862
Wisconsin	667,577
Kansas	1,573,277
Kentucky	323,220

(7) *County allotments.* County corn allotments are determined for the counties in the commercial corn area. The corn allotment for the commercial corn area in the State is distributed among the counties in the State in the commercial corn area. Distribution is made pro rata on the basis of the acreage planted to corn, plus the acreage diverted from corn under the agricultural adjustment and conservation programs, during the 10 years 1929 to 1938, inclusive, with adjustments for abnormal weather conditions and trends in acreage.

(8) *Farm allotments.* Corn allotments will be determined by the county committee with the assistance of the community committees as provided in instructions issued by the Agricultural Adjustment Administration for farms in the commercial corn area. The allotments will be determined on the basis of tillable acreage, crop rotation practices, type of soil, and topography. The allotment for any farm will compare with the allotments for other farms in the same community which are similar in these respects. The corn allotments for the farms in Adair County will not exceed the county corn allotment of 85,834 acres.

(9) *Normal yields.* The county committee with the assistance of the community committees will determine a normal yield for each farm for which a corn allotment is determined or a deduction computed.

(a) Where reliable records of the actual average yield per acre of corn for the ten years 1930 to 1939 are presented by the farmer or are available to the committee, the normal yield for the farm will be the average of such yields adjusted for trends and abnormal weather conditions.

(b) If for any year of the ten-year period, reliable records of the actual yield are not available or there was no actual yield because corn was not planted on the farm, the county committee will determine the normal yield for the farm. This will be based upon all available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land. The yields so determined will be adjusted so that the weighted average of the normal yields for all farms in the county will not ex-

ceed the county average yield of 38.2 bushels per acre.

(10) *Payment.* 10 cents per bushel of the normal yield per acre of corn for the farm for each acre in the corn allotment. On a non-corn-allotment farm no payment will be computed at the corn rate for the corn allotment determined for the farm, but payment will be computed on the corn allotment acreage at the rate for general crops as provided in Section 2.

(11) *Deduction*—(a) *Corn allotment farms.* 50 cents per bushel of the normal yield for the farm for each acre planted to corn in excess of the corn allotment.

(b) *Non-corn-allotment farms.* 50 cents per bushel of the normal yield for the farm for each acre planted to corn in excess of 10 acres.

SECTION 5—SOIL-BUILDING GOALS, PAYMENTS, AND PRACTICES

(1) *National goal.* The national goal is the conservation of the cropland not required in 1940 for the growing of soil-depleting crops, the restoration, insofar as practicable, of a permanent vegetative cover on land unsuited to the continued production of cultivated crops, and the carrying out of soil-building practices that will conserve and improve soil fertility and prevent wind and water erosion.

(2) *Farm goals.* The soil-building goal for a farm will be one unit of soil-building practices for each $1.50 of the soil-building payments computed for the farm for non-crop open pasture land, commercial orchards and perennial vegetables, and the cropland in excess of the total soil-depleting allotment. If the farm is a non-general-allotment farm, the soil-building goal also includes one unit for each $1.50 of the payment computed for the farm for general crops. The soil-building goal equals one unit for each $1.50 computed for the farm under paragraph (4).

Insofar as practicable, the county committee should determine for individual farms practices to be followed in meeting the goal which are not routine practices on the farm but which are needed on the farm in order to conserve and improve soil fertility and prevent wind and water erosion.

(3) *Establishment of grazing capacities.* In determining grazing capacity, consideration will be given to the following: (a) composition, palatability, and density of forage growth; (b) climatic changes; (c) distribution and type of water facilities; (d) topography and cultural changes; (e) extent of rodents and poisonous plants; and (f) number and classes of livestock previously carried. The average of the individual grazing capacities established for all farms in Adair county will not exceed the county average grazing capacity limit of 4.6 acres per animal unit established by the Agricultural Adjustment Administration on the basis of available statistics.

(4) *Payments.* The payments determined for soil-building practices will be the sum of the following, but if the sum of the maximum payments for the farm, exclusive of payment under sub-paragraphs (e) and (f), hereof, is less than $20, the amount determined under this paragraph (4) will be increased by the amount of the difference.

(a) 55 cents per acre of cropland in the farm in excess of the total soil-depleting allotment for the farm.

(b) $2.00 per acre of commercial orchards and perennial vegetables on the farm January 1, 1940.

(c) 24 cents per acre of noncrop open pasture land in the farm.

(d) *Non - general - allotment farms.* $1.00 per acre, adjusted for the productivity of the farm, for each acre in the total soil-depleting acreage allotment for the farm in excess of the sum of the special crop allotments for which payments are computed for the farm.

(e) $30.00 or $1.50 times the number of soil-building practice units earned by planting forest trees, whichever is smaller.

(f) The smaller of $25.00 or $1.50 times the number of soil-building practice units earned by growing on the contour alternate strips of intertilled crops with sown, close-drilled, or sod crops, or contour farming of intertilled crops.

(5) *Deductions.* $1.50 for each unit by which the soil-building goal is not reached.

(6) *Soil-building practices.* The soil-building practices in the following schedule will count toward the achievement of the soil-building goal if performed in workmanlike manner and in accordance with good farming practice for the locality.

Practices carried out with labor, seed, trees, and materials furnished by any State or Federal agency other than the AAA and representing half or more of the total cost, will not count toward achievement of the soil-building goal. If the portion of the labor, seed, trees, or other materials furnished by a State or Federal agency other than the AAA represents less than half of the total cost of carrying out a practice, one-half of the practice shall count toward achievement of the soil-building goal. Labor, seed, trees, and materials furnished to a State, a political subdivision of a State, or an agency thereof, by an agency of the same State will not be deemed to have been furnished by "any State * * * agency." No credit for meeting the soil-building goal will be given for the planting and protection of forest trees planted under a cooperative agreement entered into with the Forest Service in connection with the Prairie States Forestry Project.

Trees purchased from a Clark-McNary Cooperative State Nursery will not be deemed to be paid for in whole or in part by a State or Federal Agency.

Schedule of Soil-Building Practices

Application of Materials

(1) Application of the following fertilizers to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, permanent pasture, or in the case of 16 percent superphosphate to or in connection with green manure crops in orchards, will be counted toward achievement of the soil-building goal. If these fertilizers are applied to any of the above crops seeded or grown in connection with flax or any crop classified as soil-depleting, no part of the material applied will be counted.

(a) 300 pounds of superphosphate containing 16 percent by weight of available phosphoric acid or its equivalent: 1 unit.

(b) 150 pounds of muriate of potash containing 50 percent by weight of water soluble potash or its equivalent: 1 unit.

(c) 500 pounds of basic slag or rock (or colloidal) phosphate: 1 unit.

(2) Application of 300 pounds of gypsum containing 18 percent sulphur (or its sulphur equivalent): 1 unit.

(3) Application in commercial orchards and on perennial vegetable land of 2 tons, air dry weight, per acre of straw or equivalent mulching materials, excluding barnyard, stockyard, and stable manure: 1 unit.

(4) Application of 2,000 pounds of ground limestone (or its equivalent): 1 unit.

The ground limestone should not be coarser than that obtained by grinding calcareous or dolomitic limestone so that not less than 90 percent with all finer particles obtained in the grinding process included, will pass through an 8-mesh sieve. It must contain calcium and magnesium carbonates equivalent to not less than 80 percent of calcium carbonate. The following quantities of other calcareous substances are equivalent to 1 ton of ground limestone: 1,400 pounds of hydrated lime; 2 cubic yards of marl, sugar beet refuse lime, calcium carbide refuse lime, water softening process refuse lime, paper mill refuse lime, or commercial wood ashes; ½ ton of commercial burnt lime; 4 cubic yards of calcareous clay; 1 ton of burnt lime waste; 1 ton of agricultural limestone meal; 2,750 pounds of limestone screenings; 2,750 pounds blast furnace slag ground sufficiently so that all particles will pass through a 6-mesh sieve; 3 tons of tailings from zinc mines.

Seedings

(5) Seeding alfalfa: 1 unit per acre.

(6) Seeding of permanent meadows or pastures of a full seeding of brome grass, or of a mixture containing not less than one-half a full seeding of brome grass with alfalfa: 2 units per acre.

(7) Seeding biennial legumes, perennial legumes, perennial grasses (other than timothy or redtop) or mixtures

(other than a mixture consisting solely of timothy and redtop) containing perennial grasses, perennial legumes, or biennial legumes (except any of such seedings qualifying at a higher rate of credit): ½ unit per acre.

(8) Seeding annual lespedeza, annual rye grass, annual sweet clover or mixtures of such varieties: ½ unit per acre.

(9) Seeding winter legumes: 1 unit per acre.

(10) Seeding timothy or redtop or a mixture consisting solely of timothy and redtop: ¼ unit per acre.

In order to count toward the achievement of the soil-building goal, all seedings of red clover and any mixtures containing red clover must be made with adapted red clover seed, and all seedings of alfalfa and any mixtures containing alfalfa must be made with adapted alfalfa seed, the origin of which must be certified. Red clover and alfalfa seed grown in Canada and in the following States will be regarded as adapted: Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

Red Clover and alfalfa seed grown in the following counties of the following States also will be regarded as adapted: The counties of Baker, Cook, Deschutes, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler in the State of Oregon; the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman in the State of Washington. Red clover and alfalfa seed grown in counties in Oregon and Washington other than those enumerated in this paragraph, and alfalfa grown in Oklahoma will be regarded as adapted if certification is made by the State Crop Improvement Association of the State where the seed was produced that the seed was produced in the State and was produced from parent seed of Ohio red clover or Tennessee anthracnose-resistant red clover or parent seed of hardy adapted alfalfa, and if the certification tag attached to the seed is filed with the county committee in cases where quantities of 100 pounds or more are purchased.

Pasture Improvement

(11) Reseeding depleted pastures with good seed of adapted pasture grasses or legumes—10 pounds of seed except seedings made consisting solely of lespedeza, timothy or redtop or mixtures of such crops—20 pounds of seed: 1 unit.

(12) Natural reseeding of fenced noncrop open pasture, normally grazed during the growing season, by nongrazing until after seed matures on an acreage equal to two-thirds of the number of acres of such pasture required to carry one animal unit for a 12-month period: 1 unit.

(13) Construction of reservoirs and dams—10 cubic yards of material moved in making the fill of excavation or 7 cubic feet of concrete or rubble masonry: 1 unit.

Green Manure Crops and Go-Down Crops

(14) Green manure crops of annual legumes (including soybeans but excluding lespedeza) or *1939 fall seedings* of oats, barley, rye, wheat mixtures, wheat on non-wheat allotment farms and mixtures of any of these crops. A good growth is obtained and the crop is not pastured or harvested as grain, seed, hay, or forage, or otherwise taken from the land. It is incorporated into the soil by plowing or disking before grain formation or October 1, 1940, whichever is earlier; and where the land is subject to erosion it is followed by a winter cover crop. Credit will not be given for annual legumes in this practice if credit is given for seeding such crops as a practice in 1940: 1 unit per acre.

(15) Green manure crops of oats, barley, rye, Sudan grass, millet, annual rye grass, buckwheat, sweet sorghums, wheat mixtures, wheat on non-wheat allotment farms and mixtures of any of these crops. A good vegetative growth is obtained and the crop is not pastured or harvested as grain, seed, hay, or forage, or otherwise taken from the land. It is incorporated into the soil by plowing or disking before grain formation or October 1, 1940, whichever is earlier; and where the land is subject to erosion, it is followed by a winter cover crop. Credit will not be given for annual rye grass in this practice if credit is given for seeding the crop as a practice in 1940: ½ unit per acre.

(16) In commercial orchards, green manure crops of biennial legumes and green manure crops or go-down crops of annual legumes (including soybeans but excluding lespedeza as green manure crop and excluding soybeans and lespedeza as go-down crops), oats, barley, rye, Sudan grass, millet, annual rye grass, buckwheat, wheat mixtures, wheat on non-wheat allotment farms, and mixtures of any of these crops. If used as a green manure crop, a good vegetative growth is obtained and the crop is not pastured or harvested as grain, seed, hay, or forage, or otherwise taken from the land, and it is incorporated into the soil by plowing or disking before grain formation or October 1, 1940, whichever is earlier; and where the land is subject to erosion, it is followed by a winter cover crop. If used as a go-down crop, a good vegetative growth which is adequate to protect the soil from wind and water erosion and suitable to provide food and cover for wildlife, must be on the land on September 30, 1940, and such crop must not be pastured or harvested as grain, seed, hay, or forage, or otherwise taken from the land thereafter. Credit will not be given for biennial legumes, annual legumes, or annual rye grass in this practice if credit is given for seeding such crops as a practice in 1940: 1 unit per acre.

(17) Go-down crops of annual legumes (excluding soybeans and lespedeza). A good vegetative growth adequate to protect the soil from wind and water erosion and suitable to provide food and cover for wildlife, must be on the land on September 30, 1940. The crop must not be pastured or harvested as grain, seed, forage, hay, or otherwise taken from the land thereafter. Credit will not be given for annual legumes in this practice if credit is given for seeding such crops as a practice in 1940: 1 unit per acre.

(18) Go-down crops of Sudan grass, millet, annual rye grass, buckwheat, sweet sorghums, and mixtures of any of these crops. A good vegetative growth adequate to protect the soil from wind and water erosion and suitable to provide food and cover for wildlife, must be on the land on September 30, 1940, and such crop must not be pastured or harvested as grain, seed, hay, forage, or otherwise taken from the land thereafter. Credit will not be given for annual rye grass in this practice if credit is given for seeding the crop as a practice in 1940: ½ unit per acre.

Erosion Control

(19) Construction of 200 linear feet of standard terrace for which proper outlets are provided: 1 unit.

(20) Construction of contour furrows on noncrop open pasture land (except noncrop open pasture land that is sufficiently sandy and porous to absorb normal precipitation). Credit will be given only if: (a) the area contoured has an average slope not in excess of 8 percent; (b) the contour furrows are dammed sufficiently to prevent gullying; (c) the contour furrows are constructed on the contour level and not less than 8 inches in width and 4 inches in depth; (d) the width between the furrows on any land with an average slope of 3 percent or less does not exceed 25 feet; and (e) the width between the furrows on any land with an average slope of more than 3 percent does not exceed 25 feet less 3 feet for each percent by which the slope is greater than 3 percent. Each furrow will be considered to occupy an area not in excess of ½ rod in width: ¼ unit per acre.

(21) a. Growing on the contour alternate strips of intertilled crops with sown, close-drilled or sod crops, provided: (1) guide lines are established for each strip according to specifications (1), (2), (3), and (4) under practice No. 22 (a); (2) the strips are approximately the same width; (3) the intertilled, sown,

or close-drilled strips do not exceed an average of 225 feet in width; (4) crop stubble is left standing until October 1, 1940, or a good stand of winter cover crop is on the land on September 30, 1940. The winter cover crop requirement shall apply to all land planted to soybeans; (5) the practice was first followed on the field in 1940: 2 units per acre.

b. All requirements of practice 21 (a) are fulfilled except that the practice was first followed on the field prior to 1940: ½ unit per acre.

(22) a. Contour farming of intertilled crops, provided: (1) The deviation of the guide line from the true contour does not exceed at any point a percentage equal to half of the percentage slope of the land, but in any case the maximum deviation does not exceed three (3) percent; (2) No deviation of the guide line from the true contour exceeds two (2) percent for a greater continuous distance than 100 feet; (3) All deviation from the true contour drains toward natural or established drainageways of an average width of not less than 10 feet. The channel of the waterway must be sufficiently wide at all points to carry all water diverted into it under conditions of heaviest probable rainfall. Drainageways must be seeded to adapted grass or grass-legume mixtures before June 1, 1940, unless permanent stands are already established; (4) A permanent stake or marker is placed for each guide line established; (5) A guide line established not more than 100 feet below the top of the slope and correction or additional guide lines are established at intervals not to exceed 175 feet; (6) The practice was first followed on the field in 1940: 1 unit per acre.

b. Contour farming of intertilled crops, provided specifications (1), (2), (3), (4), and (5) of practice 22 (a) are met, except that the practice was first followed on the field prior to 1940: ¼ unit per acre.

(23) Contour seeding of small grain crops provided: (a) The deviation of the drill rows from the true contour does not exceed, at any point, a percentage equal to one-half of the percentage slope of the land, but in any case the maximum deviation shall not exceed 3 percent; (b) no deviation of the rows from the true contour is to be of a greater continuous distance than 60 feet, and (c) no credit is to be allowed on land which has a slope less than 2 percent: 1/10 unit per acre.

(24) Contour cultivation with a shallow furrowing or shovel-type implement following a small-grain crop harvested in 1940, furrows being not more than 20 inches apart: 1/10 unit per acre.

Forestry

(25) a. Planting 650 forest trees per acre (including shrubs beneficial to wildlife) in protective plantings or 300 trees per acre for windbreak if the trees are protected and cultivated in accordance with good tree culture and wildlife management practices.

b. Planting at least 350 forest trees per acre (including shrubs beneficial to wildlife) interplanted with not less than 800 forest tree nuts (including only black walnuts, butternuts, hickory nuts, and acorns) in protective plantings. The forest trees and the forest tree nuts must be evenly distributed and appropriately interplanted on the acreage for which credit is claimed. The forest tree nuts must be of a variety adapted to the area and should be planted in spacings not greater than 8 feet by 8 feet. The area planted should be protected and cultivated in accordance with good tree culture and wildlife management practices.

c. Planting one acre of adapted forest tree nuts (including only black walnuts, butternuts, hickory nuts, and acorns) in protective plantings, provided; (1) at least 2,000 nuts are planted per acre and are evenly distributed over the area; (2) such plantings are made in accordance with good tree culture and wildlife management practices; and (3) a good stand of at least 650 trees well distributed over the area for which credit is claimed is established by September 30, 1940: 5 units per acre.

(26) Maintaining a good stand of at least 300 trees per acre or a mixture of at least 300 forest trees and shrubs, suitable for wildlife and planted between July 1, 1936, and July 1, 1940, by cultivating sufficiently to control other vegetation, protection from fire and livestock, and replanting if necessary: 2 units per acre.

(27) Improving a stand of forest trees. This practice may be carried out by cutting weed trees and thinning or pruning other trees, so as to leave at least 100 potential timber trees of desirable species per acre with a minimum diameter of 6 inches, or at least 200 potential timber trees of desirable species per acre with a minimum diameter of 2 inches, well distributed over each acre of woodland provided: (a) The county committee approves the area on which such practice is to be carried out; (b) such area is not grazed and is adequately protected against fire; and (c) approved wildlife management practices are carried out.

Credit will not be given for this practice on an acreage planted to trees since July 1, 1936, nor on an acreage of old timber stands on which credit has been given for improving a stand of forest trees under an agricultural conservation program during any of the four years prior to 1940.

(28) Restriction of fenced farm woodlots normally overgrazed by nongrazing until September 30, 1940, in order to encourage the growth of young seedlings and to provide nesting places and food and cover for wildlife: 1/10 unit per acre.

Other Practices

(29) Control of seriously infested plots of perennial noxious weeds in organized weed control districts by use of approved tillage methods or sodium chlorate applied in the following manner: 5 units per acre.

The area to be treated must be mowed after weeds reach the blossom stage but before seed matures, and the foliage removed from the acreage before application of the chemical. Not less than 3 pounds of sodium chlorate is to be spread evenly on each square rod for which credit is granted, and treatment is to be made at least 10 feet beyond the infested area. The area treated is to be left idle and uncultivated until September 30, 1940. Sales receipts for all sodium chlorate used must be filed by the farmer with the county committee. Four hundred and eighty pounds of sodium chlorate used in the above manner will be equivalent to one acre of treatment.

In organized weed control districts in States that have laws which provide for a different method of application of sodium chlorate from that provided for in the above paragraph, the customary practice used in the organized district for application of sodium chlorate will be deemed to qualify for payment under this practice. In all cases, the practice must be completed by September 30, 1940, and sales receipts for sodium chlorate used must be filed by the farmer with the county committee. Four hundred and eighty pounds of sodium chlorate used in a manner described by the organized district will be equivalent to one acre of treatment.

(30) Deep sub-soiling cropland or land in orchards (the acreage of this practice shall be computed on the basis of the area so handled, each furrow being considered to occupy an area not in excess of one-half rod in width): ¼ unit per acre.

(31) Establishing 300 linear feet of permanent sod waterway in a field which is devoted to an intertilled crop in 1940. No waterway will be approved with an average width of less than 10 feet. The channel of the waterway must be sufficiently wide at all points to carry all water diverted into it under conditions of heaviest probable rainfall. Seedings made in the establishing of permanent sod waterways must contain perennial grasses in areas where it is practicable to obtain a good stand of such grasses. A good vegetative growth must be obtained in the waterway channel before September 30, 1940. Credit will not be given for this practice if credit is given for the field under practices 21a, 21b, 22a, or 22b: ½ unit of credit.

(32) Constructing dams in waterways or gullies on farm land. No dams will be approved where less than 6 dams are constructed in any one waterway or gully, (stake, wire, sod, brush, rock dams, and similar structures regarded as dams for purposes of this practice). In any event, the type of dam and method of construction will be in accordance with instructions issued by the State committee upon approval by the regional director. All

dams must be in effective operation before October 1, 1940: Construction of 6 dams: 1 unit of credit.

SECTION 6—SOIL-DEPLETING CROPS AND LAND USES

The acreage of land, exclusive of the acreage of home gardens for use on the farm, devoted during the 1940 crop year to one or more of the following crops or uses will be classified as soil-depleting. Land on which a volunteer crop is harvested will be classified as though the crop had been planted.

(1) Corn planted for any purpose (except sown corn used as a cover crop or green manure crop).

(2) Grain sorghums planted for any purpose.

(3) Broomcorn planted for any purpose.

(4) Mangels or cowbeets planted for any purpose.

(5) Potatoes planted for any purpose.

(6) Annual truck and vegetable crops planted for any purpose.

(7) Commercial bulbs and flowers, commercial mustard, cultivated sunflowers, artichokes, mint, or hemp harvested for any purpose.

(8) Field beans and field peas (other than cow peas) planted for any purpose, except Canadian field peas when not harvested for grain or matured as grain.

(9) English peas (garden peas) planted for any purpose.

(10) Soybeans harvested for grain or seed or when seed matures.

(11) Flax planted for any purpose except when used as a nurse crop for biennial or perennial legumes or perennial grasses which are seeded in a workmanlike manner. Mixtures of flax with wheat or other crops will be classified as soil-depleting in all cases in which the crops other than flax would have been classified as soil-depleting if grown alone.

(12) Wheat planted (acreage planted to wheat) on a wheat allotment farm.

(13) Wheat matured as grain on a non-wheat allotment farm. Wheat harvested for hay on a non-wheat allotment farm, except (1) when grown in a mixture containing at least 25 percent by weight of winter legumes, or (2) when cut green for hay and used as a nurse crop for legumes or perennial grasses which are seeded in a workmanlike manner.

(14) Oats, barley, rye, emmer, speltz, mixtures of these crops, or wheat mixtures matured as grain, except when credit is earned by the use of such crop for soil-building practice (16), Section 5. Oats, barley, rye, emmer, speltz, mixtures of these crops, or wheat mixtures harvested for hay except (1) when grown in mixtures containing at least 25 percent by weight of winter legumes, or (2) when cut green for hay and used as a nurse crop for legumes or perennial grasses which are seeded in a workmanlike manner.

(15) Buckwheat, Sudan grass, or millet harvested for grain or seed.

(16) Sweet sorghums, when harvested for any purpose.

(17) Idle cropland on which the county committee determines that weeds are not controlled sufficiently to prevent the lowering of the land's productivity and from increasing weed growth on adjacent land, or on which the county committee determines that water erosion is not controlled sufficiently to prevent the lowering of the land's productivity.

The acreage of land which is devoted simultaneously in 1940 to two or more of the soil-depleting crops specified in this Section planted in alternate rows or hills will be divided among the crops on the basis of that fractional part of the land devoted to each.

In order for a portion of a field not to be classified as soil-depleting, the portion must be in a solid block contiguous to the side or end of the field and the line between such portion and the remaining portion of the field must be straight, except that such line may be on the contour on fields that are contour-farmed. However, if a soil-depleting crop and a nondepleting crop are grown on an acreage in alternate rows or separate rows, spaced not less than the same distance apart as the rows of the soil-depleting crop are ordinarily spaced, the acreage will be divided between the crops on the basis of the fractional part of the land devoted to each.

SECTION 7—DIVISION OF PAYMENTS AND DEDUCTIONS

a. *Payments and deductions in connection with acreage allotments.* The net payment or net deduction computed for any farm for general crops or any crop for which a special allotment is determined will be divided among the landlords and tenants in the proportion that they are entitled, as of the time of harvest, to share in the crops in 1940. Any person who receives a portion of a crop as a fixed commodity payment will not be regarded for that reason as receiving a share of the crop.

If any crop for which payment is computed is not grown on the farm in 1940, or the acreage of the crop is substantially reduced by flood, hail, drought, insects, or plant bed diseases, the net payment or net deduction for the crop will be divided among the landlords and tenants, as the county committee determines that such persons would have been entitled to share in the crop if the entire allotment had been planted and harvested in 1940.

In cases where two or more separately owned tracts of land comprise a farm, percentage shares are shown on a form prescribed by the Agricultural Adjustment Administration, and the form is signed by all persons who are entitled to receive a share of the crops, the share of each person in the net payment or net deduction for the crops will be that indicated on such form.

b. *Payments for soil-building practices.* The net payment earned by carrying out soil-building practices will be made to the landlord or tenant who carried out the practices. If the county committee determines that more than one person carried out practices on the farm, the payment will be divided in the proportion that the units of practices carried out by each person bears to the total units of practices carried out on the farm. All persons who contributed to a practice carried out on a particular acreage will be deemed to have contributed equally to the units for the practice unless they satisfy the county committee that their contributions were not equal. In that event the units for the practice will be divided in the proportion that the county committee determines the persons contributed.

c. *Proration of net deductions.* If for any farm the sum of the net payments for all persons exceeds the sum of the net deductions for all persons, the sum of the net deductions will be prorated among the persons for whom a net payment is computed, on the basis of such computed net payments. If for any farm the sum of the net deductions for all persons equals or exceeds the sum of the net payments for all persons, no payment will be made and the amount of the net deductions in excess of the net payments will be prorated among the persons for whom a net deduction is computed, on the basis of such computed net deductions.

SECTION 8—INCREASE IN SMALL PAYMENTS

The total payment computed for any person for any farm will be increased as follows:

(a) Any payment amounting to 71 cents or less will be increased to $1.00;

(b) Any payment amounting to more than 71 cents but less than $1.00 will be increased by 40 percent;

(c) Any payment amounting to $1.00 or more will be increased in accordance with the following schedule:

Amount of payment computed:	*Increase in payment*
$1 to $1.99	$0.40
$2 to $2.99	.80
$3 to $3.99	1.20
$4 to $4.99	1.60
$5 to $5.99	2.00
$6 to $6.99	2.40
$7 to $7.99	2.80
$8 to $8.99	3.20
$9 to $9.99	3.60
$10 to $10.99	4.00
$11 to $11.99	4.40
$12 to $12.99	4.80
$13 to $13.99	5.20
$14 to $14.99	5.60
$15 to $15.99	6.00
$16 to $16.99	6.40
$17 to $17.99	6.80
$18 to $18.99	7.20
$19 to $19.99	7.60
$20 to $20.99	8.00
$21 to $21.99	8.20
$22 to $22.99	8.40
$23 to $23.99	8.60
$24 to $24.99	8.80
$25 to $25.99	9.00
$26 to $26.99	9.20
$27 to $27.99	9.40

Amount of payment computed—Continued.	*Increase in payment*
$28 to $28.99	9.60
$29 to $29.99	9.80
$30 to $30.99	10.00
$31 to $31.99	10.20
$32 to $32.99	10.40
$33 to $33.99	10.60
$34 to $34.99	10.80
$35 to $35.99	11.00
$36 to $36.99	11.20
$37 to $37.99	11.40
$38 to $38.99	11.60
$39 to $39.99	11.80
$40 to $40.99	12.00
$41 to $41.99	12.10
$42 to $42.99	12.20
$43 to $43.99	12.30
$44 to $44.99	12.40
$45 to $45.99	12.50
$46 to $46.99	12.60
$47 to $47.99	12.70
$48 to $48.99	12.80
$49 to $49.99	12.90
$50 to $50.99	13.00
$51 to $51.99	13.10
$52 to $52.99	13.20
$53 to $53.99	13.30
$54 to $54.99	13.40
$55 to $55.99	13.50
$56 to $56.99	13.60
$57 to $57.99	13.70
$58 to $58.99	13.80
$59 to $59.99	13.90
$60 to $185.99	14.00
$186 to $199.99	[1]
$200 and over	[2]

[1] Increase to $200.
[2] No increase.

SECTION 9—PAYMENTS LIMITED TO $10,000

The total of all payments for the 1940 programs under Section 8 of the Soil Conservation and Domestic Allotment Act to any individual, partnership, or estate upon farms and ranching units located within a single State will not exceed $10,000. The total of all such payments to any person other than an individual, partnership, or estate upon farms, ranching units, and turpentine places in the United States (including Alaska, Hawaii, and Puerto Rico) will not exceed $10,000. These limitations will be applied prior to the deduction for association expense in the county or counties for which the particular payment is made.

All or any part of any payment which has been or otherwise would be made to any person under the 1940 program may be withheld or required to be returned if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, or trust, which was designed to evade, or would have the effect of evading, the provisions of this section.

SECTION 10—DEDUCTIONS INCURRED ON OTHER FARMS

a. *Other farms in the same county.* A landlord's or tenant's share of the net deduction for the farm will be deducted from his share of any payment which would otherwise be made to him on any other farms in the same county.

b. *Other farms in the State.* If the net deductions computed for a landlord or tenant for any farms in a county exceed the net payments computed for him on other farms in the county, the amount of such excess deductions will be deducted from the payment computed for him for other farms in the State if the State committee finds that the crops grown and the practices adopted on the farms for which the deductions are computed substantially offset the contribution to the program made on such other farms.

SECTION 11—DEDUCTIONS FOR ASSOCIATION EXPENSES

There will be deducted pro rata from the payments for any farm all or part of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.

SECTION 12—GENERAL PROVISIONS RELATING TO PAYMENTS

a. *Payment restricted to effectuation of purposes of the program.* (1) All or any part of any payment which otherwise would be made to any person under the 1940 program may be withheld or required to be returned: (a) If he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1940 or previous agricultural conservation programs; (b) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized; or (c) if for forest land or woodland owned or controlled by him, he has adopted any practice which is found contrary to sound conservation practices.

(2) No payments other than payments for soil-building practices will be computed for any farm which is not being operated in 1940. Instructions for determining whether a farm is being operated in 1940 will be issued for each State with the approval of the Agricultural Adjustment Administration. As a minimum requirement the instructions will provide that a farm will not be considered as operated in 1940 unless

(a) an acreage of land equal to at least one-half of the acreage in the soil-depleting allotments for the farm is devoted to one or more of the following uses:

(1) Seeded to a crop for harvest in 1940.

(2) A crop (other than wild hay) is harvested in 1940.

(3) Summer fallowed in 1940.

(4) Devoted in 1940 to seeded legumes or grasses (legumes or grasses seeded in a workmanlike manner in 1940, other than those seeded in the fall of 1940, will be counted).

(5) Seeded to small grains to be pastured in 1940 (other than small grains seeded in the fall of 1940).

(b) the State committee finds that normal cropping operations were prevented by conditions beyond the control of the operator, or

(c) upon recommendation of the State committee, the regional director finds that the farm is actually being operated in 1940.

b. *Payment computed and made without regard to claims.* Any payment or share of payment will be computed and made without regard to questions of title under State law, without deduction of claims for advances (except assignments approved on a form prescribed by the Agricultural Adjustment Administration and indebtedness to the United States subject to set-off) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

c. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.* If on any farm in 1940 any change of the arrangements which existed on the farm in 1939 is made between the landlord or operator and the tenants and the change would cause a greater proportion of the payments to be made to the landlord or operator under the 1940 program than would have been made to the landlord or operator for performance on the farm under the 1939 program, payments to the landlord or operator under the 1940 program for the farm will not be greater than the amount that would have been paid to the landlord or operator if the arrangements which existed on the farm in 1939 had been continued in 1940, if the county committee certifies that the change is not justified and disapproves it.

If on any farm the number of share tenants in 1940 is less than the average number on the farm during the three years 1937 to 1939, inclusive, and this reduction would increase the payments that otherwise would be made to the landlord or operator, the payments to the landlord or operator will not be greater than the amount that otherwise would be made if the county committee certifies that the reduction is not justified and disapproves it.

If the State committee finds that any person who files an application for payment under the 1940 program has employed any other scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which the person normally would be entitled, any payment which would otherwise be made to him under the 1940 program may be withheld by the Secretary in whole or in part from the person participating in or employing the scheme or device, or the person may be required by the Secretary to refund any payment in whole or in part.

d. *Assignments.* Any person who may be entitled to any payment in connection with the 1940 program may assign the payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1940. No assignment will be recognized unless the

assignment is made in writing on a form prescribed by the Agricultural Adjustment Administration in accordance with instructions issued by the Agricultural Adjustment Administration, and unless it is entitled to priority.

e. *Excess cotton acreage.* Any person having an interest in the cotton crop on a farm on which cotton is knowingly planted in 1940 in excess of the cotton allotment for the farm will not be eligible for any payment under the provisions of the 1940 program. Any person will be presumed to have knowingly planted cotton on his farm in excess of the cotton allotment if notice of the allotment is mailed to him prior to the completion of the planting of cotton on the farm, unless he establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. The notice, if mailed to the operator of the farm, will be deemed to be notice to all persons sharing in the production of cotton on the farm in 1940.

SECTION 13—APPLICATION FOR PAYMENT

a. *Farms for which payment will be made.* A net payment will be computed for any person for a farm only if a Farm Plan for Participation in the 1940 Agricultural Conservation Program, on a form prescribed by the Agricultural Adjustment Administration, is executed for the farm and received by the county committee on or before May 1, 1940.

If for any farm such form is not executed and received by this date, no payment will be made to any person for the farm. However, if for such farm the sum of the net deductions for all persons exceeds the sum of the net payments for all persons, the amount of the net deductions in excess of the net payments will be prorated among the persons for whom a net deduction is computed, on the basis of such computed net deductions. Such prorated deductions will be deducted from any net payment computed for such persons for any farm.

b. *Persons eligible to file applications.* An application for payment for a farm may be made by any person for whom, under the provisions of Section 7, a share in the payment on the farm may be computed, and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1940 in carrying out approved soil-building practices.

c. *Time and manner of filing application and information required.* Payment will be made only upon application submitted through the county office on or before March 31, 1941. The right is reserved by the Secretary (1) to withhold payment from any person who fails to file any form or furnish any information required for any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if any form or information required is not submitted to the county office within a fixed time. At least 2 weeks' notice to the public will be given of the expiration of a time limit for filing prescribed forms. Such notice will be given by mailing it to the office of each county committee and making copies available to the press.

d. *Applications for other farms.* If a person has the right to receive all or a portion of the crops produced on more than one farm in a county and makes application for payment on one of such farms, he must make application for payment on all such farms. Upon request by the State committee any person will file with the committee any information it may request regarding any other farm in the State on which he has the right to receive all or a portion of the crops, or which he rents to another for cash.

SECTION 14—APPEALS

Any person may, within 15 days after notice is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination on any of the following matters affecting any farm in which he has an interest as landlord or tenant: (a) Eligibility to file an application for payment; (b) any soil-depleting acreage allotment, normal or actual yield, measurement, or soil-building goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment for the farm. The county committee will notify such person of its decision in writing within 15 days after receipt of the written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee will notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee he may, within 15 days after such decision is forwarded to or made available to him, request the Director of the North Central Division to review the decision of the State committee.

Written notice of any decision rendered under this section by the county or State committee will also be issued to each person known to it who, as landlord or tenant, having an interest in the operation of the farm, may be adversely affected by such decision. Only a person who shows that he is adversely affected by the outcome of any request for reconsideration or appeal may appeal the matter further, but any person who, as landlord or tenant, having an interest in the operation of the farm, would be affected by the decision to be made on any reconsideration by the county committee or subsequent appeal will be given a full and fair hearing if he appears when the hearing thereon is held.

SECTION 15—BULLETINS, INSTRUCTIONS, AND FORMS

The Agricultural Adjustment Administration is hereby authorized to make such determinations and to prepare and issue such bulletins, instructions, and forms, as may be required pursuant to the provisions hereof in administering the 1940 Adair County program.

Done at Washington, D. C., this 4th day of April 1940. Witness my hand and seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-1382; Filed, April 4, 1940; 11:46 a. m.]

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued under Section 14 of the said Act and § 522.5 of Regulations Part 522, as amended, to the employers listed below effective April 5, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of §§ 522.13 or 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F. R. 2088), and as amended October 12, 1939 (4 F. R. 4226).

Hosiery Order, August 22, 1939 (4 F. R. 3711).

Apparel Order, October 12, 1939 (4 F. R. 4225).

Knitted Wear Order, October 24, 1939 (4 F. R. 4351).

Textile Order, November 8, 1939 (4 F. R. 4531).

Glove Order, February 20, 1940 (5 F. R. 714).

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Yates Hosiery Mill, Denton, North Carolina, Hosiery, full fashioned, 8 learners, September 18, 1940.

Blossom Products Corporation, Allentown, Pennsylvania, apparel, underwear, 5 percent, October 24, 1940.

Brookside Manufacturing Co., Inc., 1 Brookside Avenue, Chatham, New York, apparel, playclothes, 5 learners, October 24, 1940.

Covington Manufacturing Company, Covington, Georgia, apparel, shirts, 5 learners, October 24, 1940.

Pleetox Products Company, 2846 Olive Street, St. Louis, Missouri, apparel, service apparel, 2 learners, October 24, 1940.

Reade Manufacturing Company, Inc., Malden, Missouri, apparel, shirts, 5 percent, October 24, 1940.

Hershey Garment Company, Paradise, Pennsylvania, apparel, slips, nightgowns, chemise and panties, 18 learners, June 28, 1940.

Holeproof Hosiery Company, 404 West Fowler Street, Milwaukee, Wisconsin, knitted wear, knitted fabric and underwear, 5 learners, October 24, 1940.

Darlington Manufacturing Company, Darlington, South Carolina, textile, cotton print cloth and sheeting, 3 percent, October 24, 1940.

J. & C. Bedspread Company, Ellijay, Georgia, textile (tufted bedspread), chenille bedspreads, 100 learners, July 5, 1940.

Chippewa Glove Company, Chippewa Falls, Wisconsin, Glove (work glove division), leather work gloves and mittens, 2 learners, October 24, 1940.

Signed at Washington, D. C., this 4th day of April 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40-1387; Filed, April 4, 1940; 11:56 a. m.]

CIVIL AERONAUTICS AUTHORITY.

Air Safety Board.

[Docket No. 12]

IN THE MATTER OF INVESTIGATION OF ACCIDENT INVOLVING AIRCRAFT NC 14289, WHICH OCCURRED NEAR SEATTLE, WASHINGTON, ON SUNDAY, MARCH 31, 1940

NOTICE OF HEARING

An accident involving aircraft of United States registry NC 14289 having occurred near Seattle, Washington, on Sunday, March 31, 1940, it is hereby ordered by the Air Safety Board, pursuant to the provisions of Sections 702 (a) (2) and 702 (c) of the Civil Aeronautics Act of 1938, that a public hearing be held in connection with the investigation of said accident before Examiner Robert W. Chrisp, at 9:30 A. M. (P. T.), Friday, April 5, 1940, in the Federal Building, Seattle, Washington.

Dated, Washington, D. C., April 1, 1940.

By the Board.

LOUIS R. INWOOD,
Acting Executive Officer.

[F. R. Doc. 40-1379; Filed, April 4, 1940; 11:03 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5599]

IN THE MATTER OF ROBERTS COUNTY POWER COMPANY AND OTTER TAIL POWER COMPANY

NOTICE OF APPLICATION

APRIL 3, 1940.

Notice is hereby given that on April 2, 1940, an application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by the Otter Tail Power Company, a corporation organized under the laws of the State of Minnesota and doing business in the States of Minnesota, North Dakota, and South Dakota, with its principal business office at Fergus Falls, Minnesota, seeking an order authorizing the purchase of the physical assets and electrical facilities of the Roberts County Power Company (which on March 11, 1940, filed an application for an order authorizing the sale of the same) consisting of a transmission system, rural distribution and five small urban distribution systems, all located in Roberts County, South Dakota, and Richland County, North Dakota. The consideration for such purchase, the application states, will be the sum of $35,000.00 in cash; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 17th day of April 1940, file with the Federal Power Commission a petition of protest in accordance with the Commission's Rules of Practice and Regulations.

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40-1365; Filed, April 4, 1940; 9:22 a. m.]

IN THE MATTER OF BILLINGS GAS COMPANY

ORDER FIXING DATE OF HEARING AND PERMITTING INTERESTED STATE COMMISSIONS TO PARTICIPATE THEREIN

APRIL 2, 1940.

Commissioners: Leland Olds, Chairman; Claude L. Draper, Basil Manly, John W. Scott, Clyde L. Seavey.

It appearing to the Commission that:

(a) On January 10, 1940, Billings Gas Company filed with the Commission an application for determination of its status under the Natural Gas Act and for other purposes;

(b) In a communication dated February 13, 1940, addressed to the Commission, the Board of Railroad Commissioners of the State of Montana requested that a joint hearing be had in this matter;

(c) Good cause exists for setting this matter for hearing and permitting interested State Commissions to participate in the proceedings to be had on said application;

The Commission orders that:

(A) A public hearing on the aforesaid application be held on May 6, 1940, beginning at 10 o'clock a. m. in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

(B) Interested State Commissions may participate in this proceeding as provided for in Section 67.4 of the Provisional Rules of Practice and Regulations under the Natural Gas Act;

(C) Nothing contained in this order shall be construed as a waiver or stay of any of the requirements of any general orders of the Commission which may be applicable to the applicant.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40-1388; Filed, April 4, 1940; 11:58 a. m.]

[Docket No. G-153]

IN THE MATTER OF OHIO OIL COMPANY

ORDER FIXING DATE OF HEARING AND PERMITTING INTERESTED STATE COMMISSIONS TO PARTICIPATE THEREIN

APRIL 2, 1940.

Commissioners: Leland Olds, Chairman; Claude L. Draper, Basil Manly, John W. Scott, Clyde L. Seavey.

It appearing to the Commission that:

(a) On January 10, 1940, Ohio Oil Company filed an application with the Commission for determination of its status under the Natural Gas Act and for other purposes;

(b) In a communication dated February 13, 1940; addressed to the Commission, the Board of Railroad Commissioners of the State of Montana requested that a joint hearing be had in this matter; and in a communication dated February 8, 1940, addressed to the Commission, the Public Service Commission of the State of Wyoming requested the creation of a Board for joint hearing herein;

(c) Good cause exists for setting this matter for hearing and permitting interested State Commissions to participate in the proceedings to be had on said application;

The Commission orders that:

(A) A public hearing on the application for determination of status be held on May 6, 1940, beginning at 10 o'clock a. m. in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.;

(B) Interested State Commissions may participate in this proceeding as provided for in § 67.4 of the Provisional Rules of Practice and Regulations under the Natural Gas Act;

(C) Nothing contained in this order shall be construed as a waiver or stay of any of the requirements of any general orders of the Commission which may be applicable to the applicant.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40–1389; Filed, April 4, 1940; 11:58 a. m.]

[Docket No. G–154]

IN THE MATTER OF MOUNTAIN FUEL SUPPLY COMPANY

ORDER FIXING DATE OF HEARING AND PERMITTING INTERESTED STATE COMMISSIONS TO PARTICIPATE THEREIN

APRIL 2, 1940.

Commissioners: Leland Olds, Chairman; Claude L. Draper, Basil Manly, John W. Scott, Clyde L. Seavey.

It appearing to the Commission that:

(a) On January 11, 1940, Mountain Fuel Supply Company filed with the Commission an application for determination of its status, under the Natural Gas Act and for other purposes;

(b) In a communication dated February 7, 1940, addressed to the Commission, the Public Service Commission of Utah indicated that a joint hearing in this matter would be desirable;

(c) Good cause exists for setting this matter for hearing and permitting interested State Commissions to participte in the proceedings to be had on said application;

The Commission orders that:

(A) A public hearing on the aforesaid application is held on May 6, 1940, beginning at 10 o'clock a. m., in the Hearing Room of the Federal Power Commission, Hurley - Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.;

(B) Interested State Commissions may participate in this proceeding as provided for in § 67.4 of the Provisional Rules of Practice and Regulations under the Natural Gas Act;

(C) Nothing contained in this order shall be construed as a waiver or stay of any of the requirements of any general orders of the Commission which may be applicable to the applicant.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40–1390; Filed, April 4, 1940; 11:58 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of April, A. D. 1940.

[File No. 70–14]

IN THE MATTER OF INTERNATIONAL UTILITIES CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on April 22, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 17, 1940.

The matter concerned herewith is in regard to an application by International Utilities Corporation, a registered holding company, for approval of the declaration and payment out of capital or unearned surplus of a regular quarterly dividend on May 1, 1940 on its $3.50 Prior Preferred Stock at the rate of 87½¢ per share on the 98,969.95 shares of such stock presently outstanding. The aggregate amount of this dividend will be $86,597.88. The applicant has designated Rule U-12C–2 as applicable to the above transaction.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–1386; Filed, April 4, 1940; 11:50 a. m.]